# 1NC vs Minnesota FP

## Off

### T --- Prohibitions ---1NC

First off is T

#### Interpretation --- Prohibitions are distinct from remedies that only block the anticompetitive elements of a practice, rather than the practice itself.

Jo Seldeslachts et al. ‘7. Professor of Industrial Organization at KU Leuven and a Senior Research Fellow at DIW Berlin, with Joseph A. Clougherty and Pedro Pita Barros. “Remedy for now but prohibit for tomorrow: the deterrence effects of merger policy tools.” https://www.ssoar.info/ssoar/bitstream/handle/document/25862/ssoar-2007-seldeslachts\_et\_al-remedy\_for\_now\_but\_prohibit.pdf;jsessionid=A244005110FDB5816E0347D9F1B75436?sequence=1

Let us now think about the differences between the two antitrust actions of prohibitions and remedies.7 In the case of a prohibition, the penalty for proposing a merger with significant anti-competitive problems involves the full prohibition of the merger: both the pro-competitive and the anti-competitive profits for merging firms are negated by the prohibition. The throwing out of the pro-competitive profits along with the anti-competitive profits is important, as this brings about the punitive measure that Posner (1970) acknowledges as being crucial for deterrence. The big difference between remedies and prohibitions is that remedies attempt to identify and eliminate the anti-competitive elements of a merger. In essence, the merging firms are able to hold on to the pro-competitive elements of the merger—so they keep (ΠPC), but the anti-competitive elements of the merger (ΠAC) are negated by the remedial action. If an antitrust authority imposes remedies, then the disincentive for firms to propose anti-competitive mergers is clearly lower. In short, prohibitions seemingly involve more deterrence than do remedies, as prohibitions represent larger punishments.

#### And, business practices are ongoing conduct defined by the behaviors of many market participants

Kerry Lynn Macintosh 97. Associate Professor of Law, Santa Clara University School of Law. B.A. 1978, Pomona College; J.D. 1982, Stanford University, “Liberty, Trade, and the Uniform Commercial Code: When Should Default Rules Be Based On Business Practices?,” 38 Wm. & Mary L. Rev. 1465, Lexis.

These new and revised articles reflect a strong trend toward choosing default rules 4 that codify existing business practices. 5 [FOOTNOTE 5 BEGINS] In this Article, the term "business practices" is used to refer to practices that emerge over time as countless market participants exercise their freedom to engage in profitable transactions. For an account of the evolution of business practices, see infra Part II. As used here, "business practices" is broader and less technical than "trade usage," which the Code narrowly defines as "any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question." U.C.C. 1-205(2). [FOOTNOTE 5 ENDS] This is particularly true of the recent revisions to Articles 3 (Negotiable Instruments), 4 (Bank Deposits and Collections) and 5 (Letters of Credit).

#### Violation---the plan only increases behavioral remedies that target anticompetitive aspects of the practice---topical affs must increase prohibitions on the practices themselves.

#### Vote neg for limits and ground---infinite behavioral remedies and no link uniqueness for offense.

### Disclosure

Next off is the procedural

#### Incorrect disclosure --- other teams at Minnesota have read this Aff --- it’s not a new plan OR new advantages

#### Voter for fairness and pre-round prep

### K Capitalism --- Socialism --- 1NC

First off/Next off is the Cap K

#### Anti-trust is a psy op to restore the prestige of capital and cover for union busting. Vote neg for socialist governance that refuses faith in smaller is better.

Henwood 21 [Doug, American journalist, economic analyst, author, and financial trader, contributor to the Nation. “Why Socialists Should Distrust Antitrust.” Jacobin. July 2021. <https://www.jacobinmag.com/2021/07/antitrust-law-monopolies-small-business-competition-large-corporations-bigness> //shree]

Last week, Joe Biden tweeted, “Let me be clear: capitalism without competition isn’t capitalism. It’s exploitation.”

It would be too much to expect this rather dim politician to understand, much less endorse, the classic Marxist analysis of profit originating in the exploitation of workers — they produce more in value for their employer than they’re paid in wages. But the remark, in all its naiveté, does capture a spreading belief in liberal policy circles that monopoly is at the heart of our economic troubles, from crappy jobs to crappy pay and benefits. I’m not convinced.

According to the introductory economics I learned in college — which was admittedly long ago — two essential features of monopolized markets were high prices and restricted supply. Those features weren’t at all visible in the US economy until the pandemic began messing with supply chains, resulting in short supplies in some sectors in the face of pent-up demand, demand that was supercharged with stimulus checks.

Even so, the shortages and price spikes are affecting just a few sectors, like new cars and lumber. They’ve yet to spread economy-wide, and there’s no sign they’re about to. They’re not the product of some long-term monopolization. For most of the last forty years, inflation has been quite low — in no small part because the working class was crushed as the 1970s turned into the 1980s and because shortages have been rare.

The giants that people point to as proof of our monopoly problem include Amazon, Google, and Facebook. Amazon, like Walmart before it, is known for low prices that crush competitors. (Workers too.) That’s not standard monopoly behavior. Google and Facebook dominate their fields, but most of their “products” are free. Yes, that means “you’re the product,” as the saying goes, but what kind of improvement would it be if broken-up Googles and Facebooks charged for their services or maintained the same monetizing-the-user’s-identity business model as the originals?

Nor is it clear how introducing competition would improve the quality of service. One of the lures of Facebook, for those subject to the lure, close to three billion users at the most recent count, is that so many people are on it. That facilitates communication. Breaking it up into competing services would be like making an AT&T phone customer incapable of contacting a Deutsche Telekom subscriber.

Behind antitrust is a faith in competition as a positive good. As socialists we should take exception to that. We already have too much competitive individualism in this society, and we don’t need any more. We need solidarity. Stimulating the war of each against all isn’t the way to get there.

A better way to handle bigness is to regulate the behemoths and encourage the growth of unions. That would do more to improve working conditions at Amazon than turning it into four or twenty little Amazons. As political economist Sam Gindin pointed out in an interview on my radio show, the deregulation movement of the 1970s and 1980s was a war on regulated oligopolies, and it was accompanied by union busting, wage cuts, and job losses. That could be a portent of life under monopoly busting.

Why is antitrust getting the attention of liberals these days? In his book on the history of American corporate governance, law professor Mark Roe notes that Franklin Roosevelt saw it as a war against “private” socialism that could stave off “government” socialism. We may be seeing something similar now. With socialism polling decently, socialists working their way into the Democratic Party, and the business class in disrepute with much of the population — Gallup reports that 73 percent of the public is either somewhat or very dissatisfied with major corporations, compared to 48 percent in 2001 — pursuing antitrust may be a campaign to restore the prestige of capitalism itself. Fronting small business as the emblem of commerce is a classic bourgeois self-defense strategy.

There’s nothing magic about smallness. Vincent Carosso ends his huge book on the Morgan banking family by quoting an unnamed socialist refusing to curse the peak Morgan, J. P., on his death: “We grieve that he could not live longer, to further organize the productive forces of the world, because he proved in practice what we hold in theory, that competition is not essential to trade and development.” It’s a sentiment worth recovering.

#### Capitalism drives extinction and structural violence

Allinson et al 21 [Jamie Allinson is Senior Lecturer in Politics and International Relations at Edinburgh University and author of The Age of Counter-revolution. China Miéville is the author of a number of highly acclaimed and prize-winning novels including October: The History of the Russian Revolution. Richard Seymour is the author of numerous works of non-fiction, His writing appears in the New York Times, London Review of Books, Guardian, Prospect, Jacobin. Rosie Warren is an Editor at Verso and the Editor-in-Chief of Salvage. All are writing for the Salvage Collective. “The Tragedy of the Worker: Toward the Proletarocene.” Introduction. July 2021. Verso EBook. ISBN: 9781839762963 //shree]

This is the question that vexed us as we set out to write The Tragedy of the Worker. From the vantage point of the present, the history of capitalist development is, as Marx expected, the history of the development of a global working class, the proletarianisation of the majority of the world’s population. But the very same process of that development has brought us to the precipice of climate disaster. Our position, to recall Trotsky’s rationalisation of War Communism in 1920, is in the highest degree tragic.

It is now clear that we will pass what scientists have long warned will be a tipping point of global warming, accelerating the already catastrophic consequences of capitalist emissions. How do we imagine emancipation on an at best partially habitable planet? Where once communists imagined seizing the means of production, taking the unprecedented capacities of capitalist infrastructures and using them to build a world of plenty, what must we imagine after the apocalypse has befallen us? What does it mean that as capitalism has become truly global, the gravediggers it has created dig not only capitalism’s grave, but also that of much organic life on earth?

Our answers to these questions remain rooted in the politics of revolutionary communism. Our stance is not based on the fantasy of a homeostatic nature that must be defended but on the critique of the capitalist metabolism – the Stoffwechsel- that must be overthrown. Earth scientists are accustomed to speak in terms of ‘cycles’ by which substances circulate in different forms: the water cycle, the rock cycle, the nitrogen cycle, the glacial-interglacial cycle, the carbon cycle, and others. One way of registering the catastrophe of climate change is to see these cycles – most of all, but not solely, the carbon cycle – as disordered, under- or over-accumulating. But this is to ignore the more fundamental circuit of which these now form epicycles, like Ptolemy’s sub-orbits of the heavenly bodies: the circuit of capital accumulation, M-C-M′.

This circuit accumulates profit and produces death. Neither is accidental. It is for this reason that the debates that capitalist ruling classes permit among themselves on ‘adaptation’ versus ‘mitigation’ take place on false premises. What is to be mitigated is the impact of climate change on accumulation, rendered through the ideology of ‘growth’ as something that benefits everyone. What we are to adapt to are the parameters of accumulation, sacrificing just enough islands, eco-systems, indigenous – and non-indigenous – cultures to maintain its imperatives for a period of time until new thresholds must be crossed, and new life sacrificed to the pagan idol of capital. Already, capitalist petro-modernity builds a certain quantum of acceptable death into its predicates: at the very least, the 8.7 million killed by fossil fuels each year according to Harvard University are considered a price worth paying for the stupendous advantages of fossil capital. And the sky can only keep going up, as deforestation, polar melt, ocean acidification, soil de-fertilisation and more intense wildfires and storms tear the web of life into patches. If the necropolitical calculus of the Covid-19 pandemic appears crass, just wait until its premises are applied to climate catastrophe.

### Forecasting CP --- 1NC

Next off is the forecasting counterplan---

#### The United States should only allow the continuation of undemocratic governance by agricultural cooperatives under antitrust law only when a team of the Good Judgment Project’s “super-forecasters” has determined that the activity reduces the numerical probability of rural food shortages, populism and unchecked urbanization from an unacceptably high level.

\* The Good Judgment Project’s “Super-forecasters” are team members of the Good Judgement Project that have ended in the top 2% of forecasters tournaments, selected by Tetlock’s team.

#### It competes---the counterplan is a regulation not prohibition.

James Broaddus 50. February 6; Judge on the Kansas City Court of Appeals, Missouri; Westlaw, “City of Meadville v. Caselman,” 240 Mo. App. 1220. https://casetext.com/case/city-of-meadville-v-caselman-1

"Under power conferred on cities of the fourth class `to regulate and license' dramshops, there is no authority to wholly prohibit or suppress. Where there is mere power in a municipality to regulate in a state, with a general policy of conducting licensed saloons, authority to prohibit is excluded. The difference between regulation and prohibition is clear and well marked. The former contemplates the continuance of the subject-matter in existence or in activity. The latter implies its entire destruction or cessation.'" (Citing text writers and cases.)

#### ONLY the counterplan solves the case---the plan can’t keep up with market changes.

AMC 07. Antitrust Modernization Commission. Deborah A. Garza, Chair. Bobby R. Burchfield ,Commissioner. W. Stephen Cannon, Commissioner. Dennis W. Carlton, Commissioner. Makan Delrahim, Commissioner. Jonathan M. Jacobson, Commissioner. Jonathan R. Yarowsky, Vice-Chair. Donald G. Kempf, Jr., Commissioner. Sanford M. Litvack, Commissioner. John H. Shenefield, Commissioner. Debra A. Valentine, Commissioner. John L. Warden, Commissioner. “Report and Recommendations.” https://govinfo.library.unt.edu/amc/report\_recommendation/amc\_final\_report.pdf

To determine whether and when particular forms of business conduct may harm competition requires an understanding of the market circumstances in which they are undertaken. Antitrust agencies and the courts have long looked to economic learning for assistance in understanding market circumstances and the likely competitive effects of particular business conduct.23 Indeed, economics now provides the core foundation for much of antitrust law. Not surprisingly, as economic learning about competition has advanced over the decades, so have the contours of antitrust doctrine.

Antitrust law also must keep pace with developments in the business world. Business practices may change, especially as technological innovation and global economic integration alter the competitive forces at work in particular markets. To protect competition and consumer welfare, antitrust analysis must offer sufficient flexibility to take account of these changes, while maintaining clear and administrable rules of antitrust enforcement.

B. Periodic Assessments of the Antitrust Laws Are Advisable

The antitrust laws in the United States require ongoing evaluation and assessment to ensure they are keeping pace with both economic learning and the ever-changing economy.24 In past decades, various entities have empowered six different commissions to assess how well antitrust law operates to serve consumers. The Antitrust Modernization Commission is the seventh such commission in almost seventy years.25 Prior commissions have made recommendations about both the substance and procedure of antitrust law.

#### Flexibility is key to super forecasting competition policy---the aff locks in policy failure.

Michelle Baddeley 17. Institute for Choice, University of South Australia. Journal of Behavioral Economics for Policy, Vol. 1, No. 1, 27-31, 2017. “Experts in policy land - Insights from behavioral economics on improving experts’ advice for policy-makers”. https://sabeconomics.org/wordpress/wp-content/uploads/JBEP-1-1-4-F.pdf

Whichever side one takes on these political divides, if the modern fashion is to allow subjective, partisan opinions to trump expert advice, what are the likely implications? Is it wise to be so mistrustful of experts? Expert advice is irreplaceable. Scientific experts and academics play a crucial role in developing new findings and insights to help inform policy, with implications across the range of human activity – from health and environmental policy through to competition policy, consumer protection and financial regulation – to name just a few. But to what extent are experts objective and impartial? Is their advice really impartial and unbiased, based around a cool and calculating objective assessment of evidence, after the careful application of robust research methodologies? In practice - uncertainty, insufficient information, unreliable data or flawed analysis can limit the expert’s ability to untangle the truth, and make it difficult for the policy-maker to assess the extent to which expert advice is reliable. Robust statistical methods, careful experimental design and clear hypotheses can guide the expert but impartial advice is also compromised by a range of economic, behavioural and socio-psychological constraints, some of which may be beyond the expert’s conscious control. Heuristics, biases and social influences driving experts can have significant negative consequences for the public, especially if misleading research findings are used to guide public policy.

This paper will explore some of these influences on experts’ judgement. In Section 2, some of problems around information, risk and uncertainty are outlined; in Section 3, key economic and socio-psychological constraints are explored. Policy implications and solutions are suggested in Section 3, focussing on how we can ensure that expert advice is devised and applied in the most robust and objective ways possible.

Information, risk and uncertainty

Risk and uncertainty is an unavoidable problem, especially for the scientific research that backs up expert judgement because it is about investigating novel, poorly understood phenomena. When information is scarce, a situation is profoundly uncertainty, and/or we have had no prior experience of an event or phenomenon, we cannot quantify the risk of one event versus another. Frequency ratios capturing the incidence of similar events in the past are of no use when there have been no similar events in the past. Given uncertainty, it is not possible to tell before the fact whether experts are right or wrong. It is not like we have given them a difficult mathematical problem which we can double check ourselves using a computer or calculator. With scientific research and expert advice – there is no way to know what the truth might be, and that is why we need experts to find it. And we can only judge expert judgements with the benefit of hindsight, if at all. This is a Catch-22: we need expert evidence to judge expert evidence.

An example of how policy-makers confront these problems of uncertainty and poor information affecting expert advice is the work of the Hazardous Substances Advisory Committee (HSAC) – an advisory committee to the UK’s Department for Environment, Food and Rural Affairs. This committee focuses on another complication arising from uncertainty – the difference between a risk and a hazard. Hazards exist, they are there – but if we know where they are, we can avoid them and thereby minimize our risk. The problem comes in knowing what and where the hazards are. Scientific experts on HSAC – including a range of toxicologists, environmental scientists and biochemists, as well as social scientists – assess evidence to help to inform the UK’s regulatory policy with respect to chemicals harmful to the environment and human health. Often a key constraint is that they are asked to provide advice around the likely environmental impacts of hazardous substances such as endocrine disruptors, antiobiotics and nanomaterials – often we do not know too much about these substances and their long-term impacts, especially for innovative technologies such as nanomaterials. HSAC has therefore devised a structure for assessing the quality of evidence when information is scarce and uncertainty is endemic –spanning not only the usual scientific evidence around experiments and field observation, but also including computational modelling and anecdotal evidence (Collins et al. 2016). For experts used to analysing large data sets, the latter would seem like an anathema but when experts are facing fundamental uncertainty the types of evidence they might use must expand accordingly. If we are forced to rely on anecdote, we need to understand what distinguishes good anecdotal evidence from bad anecdotal evidence: anecdotes that are corroborated across a range of sources are more reliable than single anecdotes, for example.

Economic and socio-psychological constraints

The problems of poor information, risk and uncertainty are not about the fallibility of individuals or even differences between individuals – either in terms of their individual differences and characters, and/or their susceptibility to biases and social influences. Once we introduce these additional constraints – which reflect the characters of the experts not the nature of the evidence – the opportunities for mistakes and misleading guidance increase significantly.

Individual differences

Individual differences seem to play a role, including in terms of innate ability to make judgements about uncertain futures. Philip Tetlock conducted a study which showed that, in forecasting uncertain future events, most experts are only just better than an ordinary person guessing at random (Tetlock 2006). In a second study, however – a collaboration with Dan Gardner – he showed that some particular individuals – experts or not – are “super-forecasters” who have a particular aptitude for forecasting (Tetlock and Gardner 2015). What ideal characteristics might enable these super-forecasters to predict so well? In a complex world, we need experts who are able to understand and analyse a wide range of evidence. Do we need experts who can cover a broad range, or experts who know a narrow field very well? Linking to Isaiah Berlin’s distinction between the fox-types who have a wide but relatively superficial knowledge, and the hedgehog-types who have a deep but relatively narrow knowledge, Tetlock (2006) argues that we may prefer to be advised by foxes – who know many little things, can draw on an eclectic range of evidence and are able to improvise relatively easily when evidence shifts. The hedgehogs, who know one area very well and focus on one tradition may be too inclined to impose formulaic and inflexible solutions.

#### Binding forecasting is key to spillover---solves security.

J. Peter Scoblic and Philip E. Tetlock 20. J. Peter Scoblic is Co-Founder of Event Horizon Strategies, a Senior Fellow in the International Security Program at New America, and a Fellow at Harvard’s Kennedy School. Philip E. Tetlock is Leonore Annenberg University Professor at the University of Pennsylvania, Co-Founder of Good Judgment, and a co-author of Superforecasting: The Art and Science of Prediction. “A Better Crystal Ball The Right Way to Think About the Future”. https://www.foreignaffairs.com/articles/united-states/2020-10-13/better-crystal-ball

The greatest barrier to a clearer vision of the future is not philosophical but organizational: the potential of combining scenario planning with probabilistic forecasting means nothing if it is not implemented. On occasion, the intelligence community has used forecasting tournaments to inform its estimates, but that is only a first step. Policymakers and consumers of intelligence are the ones who must understand the importance of forecasts and incorporate them into their decisions. Too often, operational demands—the daily business of organizations, from weighty decisions to the mundane—fix attention on the current moment.

Overcoming the tyranny of the present requires high-level action and broad, sustained effort. Leaders across the U.S. government must cultivate the cognitive habits of top forecasters throughout their organizations, while also institutionalizing the imaginative processes of scenario planners. The country’s prosperity, its security, and, ultimately, its power all depend on policymakers’ ability to envision long-term futures, anticipate short-term developments, and use both projections to inform everything from the budget to grand strategy. Giving the future short shrift only shortchanges the United States.

### BizCon DA --- 1NC

Next off is the BizCon DA

#### Anti-trust law can’t be distinguished in specific industries. It’s enforced in generalist common law unlike regulation.

Dr. William Rogerson 20, Charles E. and Emma H. Morrison Professor of Economics at Northwestern University, Ph.D. in Social Sciences from the California Institute of Technology, and Dr. Howard Shelanski, Ph.D. in Economics from University of California, Berkeley, Professor of Law at Georgetown University and Partner at Davis Polk & Wardwell LLP, JD from the UC Berkeley School of Law, BA from Haverford College, Former Clerk for Judge Stephen F. Williams of the U.S. Court of Appeals for the D.C. Circuit and Justice Antonin Scalia of the United States Supreme Court, Former Administrator of the White House Office of Information and Regulatory Affairs and Director of the Bureau of Economics at the Federal Trade Commission, Former Chief Economist of the Federal Communications Commission and Senior Economist for the President’s Council of Economic Advisers at the White House, “Antitrust Enforcement, Regulation, and Digital Platforms”, University of Pennsylvania Law Review, 168 U. Pa. L. Rev. 1911, June 2020, Lexis

I. GOING BEYOND ADJUDICATION FOR ANTITRUST ENFORCEMENT

Antitrust statutes are primarily enforced in court, usually through the adjudication of specific cases or settlement against the backdrop of court-made antitrust doctrine. Indeed, despite statutory authority for the FTC to issue competition rules, and despite the technical complexity of many antitrust cases, antitrust enforcement and policy in the United States has evolved primarily through precedent developed by generalist courts, not specialized agencies. 18To be sure, the Department of Justice and the FTC influence policy through the investigations they pursue and the consent decrees they reach with parties. The FTC itself adjudicates some cases, although it does so largely according to law developed in the federal courts, to which parties can appeal any FTC decision. 19Academics and other commentators have also affected the evolution of antitrust in the United States, from supporting an economic, notably price-focused framework for U.S. competition policy to sparking a rethinking of that framework in contemporary debates. As the courts have absorbed such learning, antitrust doctrine has evolved over the decades through the push and pull of precedent across the United States judicial circuits, with the Supreme Court periodically stepping in to correct, clarify, or resolve differences among the lower federal courts. Commentators often cite antitrust as a rare example of "federal common law" in the U.S. system. 20

The adjudicatory model for implementing antitrust enforcement has several key attributes, which in turn have both advantages and disadvantages. We put aside for now the question of who is adjudicating--whether it be an expert tribunal or a court of general jurisdiction, for example--and focus on three characteristics of antitrust adjudication itself.

A. Case-by-Case, Fact-Specific Approach

Complexity of underlying issues aside, adjudication is well suited to settings in which applicability of the law is contingent on case-specific facts. With the exception of the limited conduct that the antitrust laws prohibit per se, courts review most business activities through a rule of reason, under which some conduct that is illegal in one set of circumstances is allowable in [\*1918] another. 21The inquiry into liability goes beyond whether particular conduct in fact occurred (which is the extent of the inquiry into conduct that is illegal per se) and extends into a balancing of the conduct's likely effects on competition. 22The more that liability is contingent on such case-specific facts, the more difficult it is to determine liability in advance of the conduct's having taken place. Adjudication typically occurs when conduct either is imminent or has already occurred, at which point the relevant facts as to the effects of the conduct are, in principle, more readily measured. 23Such "ex post" mechanisms of enforcement can reduce the risk of over-enforcement when compared to alternative approaches, like some forms of regulation, that spell out more comprehensively in advance what conduct is illegal. 24Reducing false positives, however, may or may not be a virtue--that calculation depends on the extent to which particular adjudicative institutions and processes under-enforce by allowing harmful conduct or transactions to slip through the liability screen.

B. Slow, Usually Predictable Doctrinal Development

A second attribute of the American adjudicatory process for antitrust is stability. While antitrust doctrine has occasionally swerved abruptly over the past century, the common-law process through which antitrust law has developed usually provides clear notice that a change is coming. As a recent example, the Supreme Court's shift in *Leegin Creative Leather Products, Inc. v. PSKS. Inc*. 25from per se liability to a rule of reason for resale price maintenance likely caught few observers by surprise. 26

Antitrust adjudication's stability, like its suitability for fact-dependent situations, is potentially double-edged. Antitrust jurisprudence can be slow to adjust to changes in economic learning or changes in the underlying economy that alter the effects of a particular kind of business conduct. For [\*1919] example, nearly thirty years ago the Supreme Court in Brooke Group v. Brown & Williamson Tobacco Corp. 27required that plaintiffs claiming predatory pricing show not only prices below some measure of incremental cost, but also that the defendant could recoup its losses. 28No plaintiff has prevailed in a predatory pricing case in a U.S. federal court since. 29That outcome might not be of concern were it the case that the Supreme Court's test accurately captures the incidence of predatory pricing. 30Economic research demonstrates, however, that predatory conduct does occur and does not depend on either below-cost pricing or recoupment. 31Predation is just one area in which court-made doctrine appears out of step with relevant economic facts and knowledge. To be sure, other forces could accelerate the common-law process of doctrinal development. For example, Congress could legislate changes to the scope, presumptions, and other parameters of antitrust law in ways that would immediately alter precedent and bind the courts going forward. 32 In practice, however, such intervention is rare and unlikely, making significant lags in doctrine a reality of antitrust adjudication in the courts.

C. Market-Driven Case Selection

In the United States, most adjudicative bodies do not select the cases that come before them. To be sure, courts have jurisdictional limitations that prevent them from hearing certain kinds of cases, and doctrines exist that allow courts to reject weak or poorly conceived complaints. Beyond those mechanisms, however, independent parties decide when and whether to pursue litigation as method of relief. One potential virtue of this separation between decisionmaking and case selection is that the market can drive the focus of judicial attention. Assuming the most widespread and most troublesome anticompetitive conduct will receive the greatest investment of litigation resources, that conduct will in turn receive the most adjudication and doctrinal development.

[\*1920] Unfortunately, the separation between adjudication and case selection will not necessarily lead to an efficient match between judicial attention and the most pressing antitrust violations. In practice, even conduct that is clearly prohibited can persist when offenders think detection is difficult; one only has to look at the consistently high number of civil and criminal price fixing cases that wind up in court, even though that conduct has clearly been illegal per se for nearly a century. 33The most widespread anticompetitive conduct might not therefore be the conduct most in need of doctrinal development--it can be just the opposite, as the persistence of cartels demonstrates. 34Moreover, if the courts develop doctrine that needs revisiting, but that deters the government or private plaintiffs from filing cases, 35then the market for judicial attention to antitrust conduct will not work well dynamically; once doctrine is settled, there may be no mechanism outside of legislation or regulatory intervention to drive doctrinal change. We return to this issue below.

D. Generalists versus Industry Experts

Returning to an issue we put aside earlier, who is doing the adjudication can matter for substantive outcomes. In U.S. antitrust law, that adjudication has occurred, at least ultimately, in generalist federal courts. That institutional locus might well make sense given the wide variety of conduct, industries, and factual circumstances that antitrust cases present. However, as specific industries come to pose particular challenges for antitrust enforcement, the case for more specialized enforcement decisionmakers becomes stronger. Traditionally, where detailed, industry-specific knowledge is required to make sound competition policy decisions, Congress has assigned authority over those decisions, at least in part, to industry-specific regulatory agencies. Thus, the Securities and Exchange Commission has authority over competitive conduct in key financial sectors. 36The FCC has parallel authority with the Department of Justice (DOJ) over telecommunications mergers and sole authority to establish terms for competitive entry into various telecommunications markets. 37State [\*1921] regulators govern entry into hospital markets through Certifications of Public Need. 38The federal courts have increasingly safeguarded the domain of industry specific regulators over competition issues even when agency decisions might be in tension with antitrust law. 39

As antitrust enforcement focuses on distinct challenges posed by a particular industry, whether digital platforms, pharmaceuticals, or something else, expert and specialized knowledge becomes even more essential to making good enforcement decisions. Under current law and enforcement frameworks, there is no systematic way to bring such specialization into the ultimate adjudication of antitrust cases in industries not already covered by specific, competition-related, regulatory statutes. To be sure, the FTC and DOJ have divisions that specialize in various industrial sectors in which they have considerable expertise. Those divisions bring that expertise into their review of conduct and transactions, but neither the FTC nor DOJ has ultimate adjudicative authority over the cases they choose to litigate. The DOJ must go to federal court to seek enforcement. The FTC can opt for an administrative enforcement mechanism with the Commission itself sitting in appellate review of initial adjudication by an administrative law judge. The Commission's decision is, however, subject to review by federal appellate courts, which have not hesitated to reverse the agency's decisions. 40 The result is that, even when agencies have brought specific industry expertise into antitrust enforcement, doctrinal application and resolution still proceeds through the common-law process of adjudication by generalist judges.

E. Tradeoffs Inherent in the Adjudicatory Approach to Antitrust

As the foregoing discussion suggests, the ex post case-by-case approach, slow doctrinal evolution, and case selection mechanism of antitrust adjudication have potential advantages and disadvantages. The tradeoffs become particularly clear through the interaction of those three characteristics.

[\*1922] Adjudication may mitigate the rate of false positives or false negatives obtained through enforcement, as proceeding case-by-case is less likely to bring about those results than are general rules that impose limits on business conduct in advance, regardless of specific circumstances. Broad ex ante specifications could prohibit beneficial or harmless conduct, and narrow ex ante specifications could fail to prevent anticompetitive practices. As a decisionmaking process moves from strict ex ante prescription to pure case-by-case adjudication, particular facts and circumstances increasingly predominate over generic categorization of conduct. 41In principle, the movement along that spectrum enables the decisionmaker to avoid under-inclusiveness or over-inclusiveness of categorical rules. 42

The extent to which an adjudicator actually succeeds in reducing enforcement errors in either direction depends on the doctrine and precedent through which it evaluates the case-specific evidence. Doctrine and precedent will determine how a court allocates burdens, prioritizes facts, and weighs presumptions in evaluating the legality of conduct. If precedent provides mistaken guidance on those factors, case-specific adjudication might do no better a job than ex ante prohibitions in avoiding errors or bias toward either under or over-enforcement. For this reason, the evolutionary pace of doctrinal development through antitrust adjudication is very important. Where that evolution has been toward convergence with state-of-the-art analysis and evidence as to the effects of conduct, doctrinal stability is a virtue. Reasonable people disagree over the Supreme Court's movement from per se illegality to rule of reason treatment of vertical price restraints, as Justice Breyer's dissent in Leegin demonstrates. 43 The decision in that case nonetheless drew on a body of legal and economic analysis that, over decades, had continually narrowed the application of per se rules to vertical conduct and led logically (even if some might argue incorrectly) to the majority's conclusion. 44Many commentators might therefore say Leegin is a good example of where the evolution of doctrine through adjudication worked well: stakeholders had notice and the doctrine moved in an internally consistent direction. While it is debatable whether the per se rule against restraints on [\*1923] intra-brand competition has in recent years led to over-enforcement, there is a good case that it had done so in the past, 45so that the doctrine plausibly moved in an error-reducing direction.

However, where doctrine gets on the wrong track, the application of precedent will perpetuate rather than reduce enforcement errors. In the case of predation, for example, there is a good argument that, in the light of current economic knowledge, the Brooke Group decision has led to underenforcement. 46The potential case-by-case advantages of adjudication are lost where judicial precedent renders important facts and circumstances irrelevant. In such cases, the relatively slow process of doctrinal correction through common law evolution is harmful to sound antitrust enforcement.

The discussion above shows that the error-reducing potential of a case-by-case, adjudicatory approach to antitrust enforcement depends heavily on the actual doctrine courts apply and on the process by which that doctrine evolves. Similarly, whether case selection in an adjudicatory approach in fact directs judicial attention to the conduct that most warrants oversight depends on existing doctrine and precedent. It may well be that the conduct doing the most harm is also the conduct for which the courts impose the highest burdens of proof on plaintiffs. The deterrent effect of those burdens likely leads to fewer cases than the conduct's actual effects warrant. 47Similarly, doctrine that too readily imposes liability could have the opposite effect: lower barriers for plaintiffs would lead to too many cases and more devotion of judicial resources than the conduct deserves. 48Like error-reduction, the distribution of antitrust cases brought for adjudication depends heavily on the state of the doctrine and on the ability of the common law process to correct course where necessary.

The potential disadvantages of antitrust adjudication by generalist courts raise the question of whether a different approach might be preferable, specifically with regard to digital platforms. Digital platforms present relatively novel challenges. Considering the tenuous fit between some [\*1924] potential theories of harm and current antitrust doctrine, the complexity of the underlying technical issues in antitrust cases, and the interrelatedness of those issues and adjacent policy goals, a more informed, comprehensive approach coordinated by an expert regulatory agency might foster more advantages than does the exclusive resort to traditional antitrust adjudication. However, before we turn to the form such regulation might take, we briefly identify some general principles for such regulation.

#### Unpredictable legal shifts wreck business confidence.

Sarah Chaney Cambon 21, Reporter on The Wall Street Journal's Economics Team, BA in Business Journalism from the University of North Carolina-Chapel Hill, “Capital-Spending Surge Further Lifts Economic Recovery”, Wall Street Journal, 6/27/2021, https://www.wsj.com/articles/capital-spending-surge-further-lifts-economic-recovery-11624798800

Business investment is emerging as a powerful source of U.S. economic growth that will likely help sustain the recovery.

Companies are ramping up orders for computers, machinery and software as they grow more confident in the outlook.

Nonresidential fixed investment, a proxy for business spending, rose at a seasonally adjusted annual rate of 11.7% in the first quarter, led by growth in software and tech-equipment spending, according to the Commerce Department. Business investment also logged double-digit gains in the third and fourth quarters last year after falling during pandemic-related shutdowns. It is now higher than its pre-pandemic peak.

Orders for nondefense capital goods excluding aircraft, another measure for business investment, are near the highest levels for records tracing back to the 1990s, separate Commerce Department figures show.

“Business investment has really been an important engine powering the U.S. economic recovery,” said Robert Rosener, senior U.S. economist at Morgan Stanley. “In our outlook for the economy, it’s certainly one of the bright spots.”

Consumer spending, which accounts for about two-thirds of economic output, is driving the early stages of the recovery. Americans, flush with savings and government stimulus checks, are spending more on goods and services, which they shunned for much of the pandemic.

Robust capital investment will be key to ensuring that the recovery maintains strength after the spending boost from fiscal stimulus and business reopenings eventually fades, according to some economists.

Rising business investment helps fuel economic output. It also lifts worker productivity, or output per hour. That metric grew at a sluggish pace throughout the last economic expansion but is now showing signs of resurgence.

The recovery in business investment is shaping up to be much stronger than in the years following the 2007-09 recession. “The events especially in late ’08, early ’09 put a lot of businesses really close to the edge,” said Phil Suttle, founder of Suttle Economics. “I think a lot of them said, ‘We’ve just got to be really cautious for a long while.’”

Businesses appear to be less risk-averse now, he said.

After the financial crisis, businesses grew by adding workers, rather than investing in capital. Hiring was more attractive than capital spending because labor was abundant and relatively cheap. Now the supply of workers is tight. Companies are raising pay to lure employees. As a result, many firms have more incentive to grow by investing in capital.

Economists at Morgan Stanley predict that U.S. capital spending will rise to 116% of prerecession levels after three years. By comparison, investment took 10 years to reach those levels once the 2007-09 recession hit.

Company executives are increasingly confident in the economy’s trajectory. The Business Roundtable’s economic-outlook index—a composite of large companies’ plans for hiring and spending, as well as sales projections—increased by nine points in the second quarter to 116, just below 2018’s record high, according to a survey conducted between May 25 and June 9. In the second quarter, the share of companies planning to boost capital investment increased to 59% from 57% in the first.

“We’re seeing really strong reopening demand, and a lot of times capital investment follows that,” said Joe Song, senior U.S. economist at BofA Securities.

Mr. Song added that less uncertainty regarding trade tensions between the U.S. and China should further underpin business confidence and investment. “At the very least, businesses will understand the strategy that the Biden administration is trying to follow and will be able to plan around that,” he said.

#### Economic decline cascades and goes nuclear---their defense doesn’t assume post-COVID shifts.

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Various scholars and institutions regard global social instability as the greatest threat facing this decade. The catalyst has been postulated to be a Second Great Depression which, in turn, will have profound implications for global security and national integrity. This paper, written from a broad systems perspective, illustrates how emerging risks are getting more complex and intertwined; blurring boundaries between the economic, environmental, geopolitical, societal and technological taxonomy used by the World Economic Forum for its annual global risk forecasts. Tight couplings in our global systems have also enabled risks accrued in one area to snowball into a full-blown crisis elsewhere. The COVID-19 pandemic and its socioeconomic fallouts exemplify this systemic chain-reaction. Onceinexorable forces of globalization are rupturing as the current global system can no longer be sustained due to poor governance and runaway wealth fractionation. The coronavirus pandemic is also enabling Big Tech to expropriate the levers of governments and mass communications worldwide. This paper concludes by highlighting how this development poses a dilemma for security professionals.

Key Words: Global Systems, Emergence, VUCA, COVID-9, Social Instability, Big Tech, Great Reset

INTRODUCTION

The new decade is witnessing rising volatility across global systems. Pick any random “system” today and chart out its trajectory: Are our education systems becoming more robust and affordable? What about food security? Are our healthcare systems improving? Are our pension systems sound? Wherever one looks, there are dark clouds gathering on a global horizon marked by volatility, uncertainty, complexity and ambiguity (VUCA).

But what exactly is a global system? Our planet itself is an autonomous and selfsustaining mega-system, marked by periodic cycles and elemental vagaries. Human activities within however are not system isolates as our banking, utility, farming, healthcare and retail sectors etc. are increasingly entwined. Risks accrued in one system may cascade into an unforeseen crisis within and/or without (Choo, Smith & McCusker, 2007). Scholars call this phenomenon “emergence”; one where the behaviour of intersecting systems is determined by complex and largely invisible interactions at the substratum (Goldstein, 1999; Holland, 1998).

The ongoing COVID-19 pandemic is a case in point. While experts remain divided over the source and morphology of the virus, the contagion has ramified into a global health crisis and supply chain nightmare. It is also tilting the geopolitical balance. China is the largest exporter of intermediate products, and had generated nearly 20% of global imports in 2015 alone (Cousin, 2020). The pharmaceutical sector is particularly vulnerable. Nearly “85% of medicines in the U.S. strategic national stockpile” sources components from China (Owens, 2020).

An initial run on respiratory masks has now been eclipsed by rowdy queues at supermarkets and the bankruptcy of small businesses. The entire global population – save for major pockets such as Sweden, Belarus, Taiwan and Japan – have been subjected to cyclical lockdowns and quarantines. Never before in history have humans faced such a systemic, borderless calamity.

COVID-19 represents a classic emergent crisis that necessitates real-time response and adaptivity in a real-time world, particularly since the global Just-in-Time (JIT) production and delivery system serves as both an enabler and vector for transboundary risks. From a systems thinking perspective, emerging risk management should therefore address a whole spectrum of activity across the economic, environmental, geopolitical, societal and technological (EEGST) taxonomy. Every emerging threat can be slotted into this taxonomy – a reason why it is used by the World Economic Forum (WEF) for its annual global risk exercises (Maavak, 2019a). As traditional forces of globalization unravel, security professionals should take cognizance of emerging threats through a systems thinking approach.

METHODOLOGY

An EEGST sectional breakdown was adopted to illustrate a sampling of extreme risks facing the world for the 2020-2030 decade. The transcendental quality of emerging risks, as outlined on Figure 1, below, was primarily informed by the following pillars of systems thinking (Rickards, 2020):

• Diminishing diversity (or increasing homogeneity) of actors in the global system (Boli & Thomas, 1997; Meyer, 2000; Young et al, 2006);

• Interconnections in the global system (Homer-Dixon et al, 2015; Lee & Preston, 2012);

• Interactions of actors, events and components in the global system (Buldyrev et al, 2010; Bashan et al, 2013; Homer-Dixon et al, 2015); and

• Adaptive qualities in particular systems (Bodin & Norberg, 2005; Scheffer et al, 2012) Since scholastic material on this topic remains somewhat inchoate, this paper buttresses many of its contentions through secondary (i.e. news/institutional) sources.

ECONOMY

According to Professor Stanislaw Drozdz (2018) of the Polish Academy of Sciences, “a global financial crash of a previously unprecedented scale is highly probable” by the mid- 2020s. This will lead to a trickle-down meltdown, impacting all areas of human activity.

The economist John Mauldin (2018) similarly warns that the “2020s might be the worst decade in US history” and may lead to a Second Great Depression. Other forecasts are equally alarming. According to the International Institute of Finance, global debt may have surpassed $255 trillion by 2020 (IIF, 2019). Yet another study revealed that global debts and liabilities amounted to a staggering $2.5 quadrillion (Ausman, 2018). The reader should note that these figures were tabulated before the COVID-19 outbreak.

The IMF singles out widening income inequality as the trigger for the next Great Depression (Georgieva, 2020). The wealthiest 1% now own more than twice as much wealth as 6.9 billion people (Coffey et al, 2020) and this chasm is widening with each passing month. COVID-19 had, in fact, boosted global billionaire wealth to an unprecedented $10.2 trillion by July 2020 (UBS-PWC, 2020). Global GDP, worth $88 trillion in 2019, may have contracted by 5.2% in 2020 (World Bank, 2020).

As the Greek historian Plutarch warned in the 1st century AD: “An imbalance between rich and poor is the oldest and most fatal ailment of all republics” (Mauldin, 2014). The stability of a society, as Aristotle argued even earlier, depends on a robust middle element or middle class. At the rate the global middle class is facing catastrophic debt and unemployment levels, widespread social disaffection may morph into outright anarchy (Maavak, 2012; DCDC, 2007).

Economic stressors, in transcendent VUCA fashion, may also induce radical geopolitical realignments. Bullions now carry more weight than NATO’s security guarantees in Eastern Europe. After Poland repatriated 100 tons of gold from the Bank of England in 2019, Slovakia, Serbia and Hungary quickly followed suit.

According to former Slovak Premier Robert Fico, this erosion in regional trust was based on historical precedents – in particular the 1938 Munich Agreement which ceded Czechoslovakia’s Sudetenland to Nazi Germany. As Fico reiterated (Dudik & Tomek, 2019):

“You can hardly trust even the closest allies after the Munich Agreement… I guarantee that if something happens, we won’t see a single gram of this (offshore-held) gold. Let’s do it (repatriation) as quickly as possible.” (Parenthesis added by author).

President Aleksandar Vucic of Serbia (a non-NATO nation) justified his central bank’s gold-repatriation program by hinting at economic headwinds ahead: “We see in which direction the crisis in the world is moving” (Dudik & Tomek, 2019). Indeed, with two global Titanics – the United States and China – set on a collision course with a quadrillions-denominated iceberg in the middle, and a viral outbreak on its tip, the seismic ripples will be felt far, wide and for a considerable period.

A reality check is nonetheless needed here: Can additional bullions realistically circumvallate the economies of 80 million plus peoples in these Eastern European nations, worth a collective $1.8 trillion by purchasing power parity? Gold however is a potent psychological symbol as it represents national sovereignty and economic reassurance in a potentially hyperinflationary world. The portents are clear: The current global economic system will be weakened by rising nationalism and autarkic demands. Much uncertainty remains ahead. Mauldin (2018) proposes the introduction of Old Testament-style debt jubilees to facilitate gradual national recoveries. The World Economic Forum, on the other hand, has long proposed a “Great Reset” by 2030; a socialist utopia where “you’ll own nothing and you’ll be happy” (WEF, 2016).

In the final analysis, COVID-19 is not the root cause of the current global economic turmoil; it is merely an accelerant to a burning house of cards that was left smouldering since the 2008 Great Recession (Maavak, 2020a). We also see how the four main pillars of systems thinking (diversity, interconnectivity, interactivity and “adaptivity”) form the mise en scene in a VUCA decade.

ENVIRONMENTAL

What happens to the environment when our economies implode? Think of a debt-laden workforce at sensitive nuclear and chemical plants, along with a concomitant surge in industrial accidents? Economic stressors, workforce demoralization and rampant profiteering – rather than manmade climate change – arguably pose the biggest threats to the environment. In a WEF report, Buehler et al (2017) made the following pre-COVID-19 observation:

The ILO estimates that the annual cost to the global economy from accidents and work-related diseases alone is a staggering $3 trillion. Moreover, a recent report suggests the world’s 3.2 billion workers are increasingly unwell, with the vast majority facing significant economic insecurity: 77% work in part-time, temporary, “vulnerable” or unpaid jobs.

Shouldn’t this phenomenon be better categorized as a societal or economic risk rather than an environmental one? In line with the systems thinking approach, however, global risks can no longer be boxed into a taxonomical silo. Frazzled workforces may precipitate another Bhopal (1984), Chernobyl (1986), Deepwater Horizon (2010) or Flint water crisis (2014). These disasters were notably not the result of manmade climate change. Neither was the Fukushima nuclear disaster (2011) nor the Indian Ocean tsunami (2004). Indeed, the combustion of a long-overlooked cargo of 2,750 tonnes of ammonium nitrate had nearly levelled the city of Beirut, Lebanon, on Aug 4 2020. The explosion left 204 dead; 7,500 injured; US$15 billion in property damages; and an estimated 300,000 people homeless (Urbina, 2020). The environmental costs have yet to be adequately tabulated.

Environmental disasters are more attributable to Black Swan events, systems breakdowns and corporate greed rather than to mundane human activity.

Our JIT world aggravates the cascading potential of risks (Korowicz, 2012). Production and delivery delays, caused by the COVID-19 outbreak, will eventually require industrial overcompensation. This will further stress senior executives, workers, machines and a variety of computerized systems. The trickle-down effects will likely include substandard products, contaminated food and a general lowering in health and safety standards (Maavak, 2019a). Unpaid or demoralized sanitation workers may also resort to indiscriminate waste dumping. Many cities across the United States (and elsewhere in the world) are no longer recycling wastes due to prohibitive costs in the global corona-economy (Liacko, 2021).

Even in good times, strict protocols on waste disposals were routinely ignored. While Sweden championed the global climate change narrative, its clothing flagship H&M was busy covering up toxic effluences disgorged by vendors along the Citarum River in Java, Indonesia. As a result, countless children among 14 million Indonesians straddling the “world’s most polluted river” began to suffer from dermatitis, intestinal problems, developmental disorders, renal failure, chronic bronchitis and cancer (DW, 2020). It is also in cauldrons like the Citarum River where pathogens may mutate with emergent ramifications.

On an equally alarming note, depressed economic conditions have traditionally provided a waste disposal boon for organized crime elements. Throughout 1980s, the Calabriabased ‘Ndrangheta mafia – in collusion with governments in Europe and North America – began to dump radioactive wastes along the coast of Somalia. Reeling from pollution and revenue loss, Somali fisherman eventually resorted to mass piracy (Knaup, 2008).

The coast of Somalia is now a maritime hotspot, and exemplifies an entwined form of economic-environmental-geopolitical-societal emergence. In a VUCA world, indiscriminate waste dumping can unexpectedly morph into a Black Hawk Down incident. The laws of unintended consequences are governed by actors, interconnections, interactions and adaptations in a system under study – as outlined in the methodology section.

Environmentally-devastating industrial sabotages – whether by disgruntled workers, industrial competitors, ideological maniacs or terrorist groups – cannot be discounted in a VUCA world. Immiserated societies, in stark defiance of climate change diktats, may resort to dirty coal plants and wood stoves for survival. Interlinked ecosystems, particularly water resources, may be hijacked by nationalist sentiments. The environmental fallouts of critical infrastructure (CI) breakdowns loom like a Sword of Damocles over this decade.

GEOPOLITICAL

The primary catalyst behind WWII was the Great Depression. Since history often repeats itself, expect familiar bogeymen to reappear in societies roiling with impoverishment and ideological clefts. Anti-Semitism – a societal risk on its own – may reach alarming proportions in the West (Reuters, 2019), possibly forcing Israel to undertake reprisal operations inside allied nations. If that happens, how will affected nations react? Will security resources be reallocated to protect certain minorities (or the Top 1%) while larger segments of society are exposed to restive forces? Balloon effects like these present a classic VUCA problematic.

Contemporary geopolitical risks include a possible Iran-Israel war; US-China military confrontation over Taiwan or the South China Sea; North Korean proliferation of nuclear and missile technologies; an India-Pakistan nuclear war; an Iranian closure of the Straits of Hormuz; fundamentalist-driven implosion in the Islamic world; or a nuclear confrontation between NATO and Russia. Fears that the Jan 3 2020 assassination of Iranian Maj. Gen. Qasem Soleimani might lead to WWIII were grossly overblown. From a systems perspective, the killing of Soleimani did not fundamentally change the actor-interconnection-interaction adaptivity equation in the Middle East. Soleimani was simply a cog who got replaced.

### Trade DA --- 1NC

Next off is the Trade DA

#### The plan is perceived as a protectionist shockwave that shreds any semblance of global free trade.

Allison Murray 19. JD from the Loyola Law School, Los Angeles Law School, BS in Business Administration from the University of Redlands, Judicial Law Clerk at the U.S. Bankruptcy Courts, Winter. “Given Today's New Wave of Protectionism, is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade's Coffin?” Loyola of Los Angeles International and Comparative Law Review, Volume 42, Number 1, 42 Loy. L.A. Int'l & Comp. L. Rev. 117, Lexis.

INTRODUCTION

Trump. Le Pen. Brexit. Protectionist rhetoric has consumed the international political stage. Western countries and their leaders were once the drivers of economic globalization, relying on free-market speeches and the prospect of removing trade barriers to appeal to their constituents. 1They pointed fingers at other countries engaging in or encouraging protectionist behavior and challenged them in the court of public opinion and elsewhere to stop their antics. The "our country first, world trade after" mentality was widely politicized and vilified. Now, it seems that Western national leaders are championing the very protectionism that they once criticized. 2

Although a system of truly free world trade has never been perfected, past world leaders have eliminated most of the protectionist trade mechanisms that once ran rampant in the international economy. They did so by implementing multilateral and bilateral trade agreements. These webs of agreements have bolstered decades of support for free trade, or at least some version of it. By and large, tariff policies and other forms of protectionism were either eliminated or dramatically reduced. Now, as we have seen in the media, when a government imposes a tariff, it becomes a rather extreme political statement which sends a shockwave of significant global consequences.

Protectionism did not end when the age of overbearing tariff policies did, despite then-leaders’ best efforts to vilify it. Rather, the end of the tariff era forced nations to achieve protectionist goals through more subtle trade vehicles, like antitrust law.3 So, the recent resurgence of protectionist rhetoric should mean that these subtle trade vehicles, including antitrust law, will be relied on more heavily. It is a fear of many that antitrust law may become overused and inequitably applied to achieve and combat protectionist aims.

Notwithstanding the recent uptick in tariff threats, it is unlikely that all Western leaders will revamp or terminate the trade agreements set forth by their predecessors and bring back the kinds of tariff policies that once existed in their place. Although in the United States (“U.S.”), President Trump recently imposed tariffs on steel imports, it appears that his intent is to limit this behavior to a specific industry rather than institute a widespread policy favoring the use of tariffs generally.4 To remedy bad behavior in a specialized set of industries is not to instigate a global paradigm shift. This purpose is underscored by his use of the national security exemption, which is largely interpreted as being used for individual situations rather than general policy schemes.5 Many still hope that his course of action will be retracted and is merely a strong negotiation tactic. However, there is no doubt that Trump is far more comfortable than past leaders with subverting the status quo on trade relations.

Trump is not the only high-profile leader flirting with staunch protectionism. Western *leaders* in the E.U. appear to be growing more comfortable than their predecessors with considering similar policies. However, Western *lawmakers* themselves do not seem as persuaded by the statements of their leadership. The general sentiment among international policymakers is that there has been too much political wherewithal spent on loosening international trade barriers to take actions that could counteract that progress.6 Presidential actions taken because of dissatisfaction with current global trade relations aside, a complete overhaul of trade agreements may be too daunting and difficult a task, especially absent ample political support in legislative bodies.

Given the anticipated continuation of cooperative trade agreements and the proliferation of protectionist rhetoric as the new norm of public opinion, leaders will be forced to rely on existing avenues to meet protectionist aims. Again, we find ourselves relying squarely on antitrust law, the more subtle and widely accepted mechanism of restricting trade, to address perceived inequities. In the words of the World Trade Organization (“WTO”), “once formal trade barriers come down, other issues become more important.”7 Among the important issues lies antitrust law. Antitrust and competition laws can form a subtle trade barrier resulting in the imposition of tariff-like measures.

Antitrust law can be enforced to reach protectionist aims and to combat them. It is a tool that allows nations to achieve individual protectionist aims without undermining the future of trade between countries and the cooperative framework underpinning the relatively delicate global free trade enjoyed today. However, the perception of enforcement of antitrust laws as an abusive and solely protectionist mechanism may cause the death of even the smallest semblance of international free trade that remains in the international marketplace today.

#### Nuclear war.

Dr. Michael F. Oppenheimer 21. Clinical Professor at the Center for Global Affairs at New York University, Senior Consulting Fellow for Scenario Planning at the International Institute for Strategic Studies, Former Executive Vice President at The Futures Group, The Foreign Policy Roundtable at the Carnegie Council on Ethics and International Affairs, and The American Council on Germany, “The Turbulent Future of International Relations,” in The Future of Global Affairs: Managing Discontinuity, Disruption and Destruction, eds. Ankersen and Sidhu, p. 23-30.

Four structural forces will shape the future of International Relations: globalization (but without liberal rules, institutions, and leadership)1; multipolarity (the end of American hegemony and wider distribution of power among states and non-states2); the strengthening of distinctive, national and subnational identities, as persistent cultural differences are accentuated by the disruptive effects of Western style globalization (what Samuel Huntington called the “non-westernization of IR”3); and secular economic stagnation, a product of longer term global decline in birth rates combined with aging populations.4 These structural forces do not determine everything. Environmental events, global health challenges, internal political developments, policy mistakes, technology breakthroughs or failures, will intersect with structure to define our future. But these four structural forces will impact the way states behave, in the capacity of great powers to manage their differences, and to act collectively to settle, rather than exploit, the inevitable shocks of the next decade.

Some of these structural forces could be managed to promote prosperity and avoid war. Multipolarity (inherently more prone to conflict than other configurations of power, given coordination problems)5 plus globalization can work in a world of prosperity, convergent values, and effective conflict management. The Congress of Vienna system achieved relative peace in Europe over a hundred-year period through informal cooperation among multiple states sharing a fear of populist revolution. It ended decisively in 1914. Contemporary neoliberal institutionalists, such as John Ikenberry, accept multipolarity as our likely future, but are confident that globalization with liberal characteristics can be sustained without American hegemony, arguing that liberal values and practices have been fully accepted by states, global institutions, and private actors as imperative for growth and political legitimacy.6 Divergent values plus multipolarity can work, though at significantly lower levels of economic growth-in an autarchic world of isolated units, a world envisioned by the advocates of decoupling, including the current American president. 7 Divergent values plus globalization can be managed by hegemonic power, exemplified by the decade of the 1990s, when the Washington Consensus, imposed by American leverage exerted through the IMF and other U.S. dominated institutions, overrode national differences, but with real costs to those states undergoing “structural adjustment programs,”8 and ultimately at the cost of global growth, as states—especially in Asia—increased their savings to self insure against future financial crises.9

But all four forces operating simultaneously will produce a future of increasing internal polarization and cross border conflict, diminished economic growth and poverty alleviation, weakened global institutions and norms of behavior, and reduced collective capacity to confront emerging challenges of global warming, accelerating technology change, nuclear weapons innovation and proliferation. As in any effective scenario, this future is clearly visible to any keen observer. We have only to abolish wishful thinking and believe our own eyes.10

Secular Stagnation

This unbrave new world has been emerging for some time, as US power has declined relative to other states, especially China, global liberalism has failed to deliver on its promises, and totalitarian capitalism has proven effective in leveraging globalization for economic growth and political legitimacy while exploiting technology and the state’s coercive powers to maintain internal political control. But this new era was jumpstarted by the world financial crisis of 2007, which revealed the bankruptcy of unregulated market capitalism, weakened faith in US leadership, exacerbated economic deprivation and inequality around the world, ignited growing populism, and undermined international liberal institutions. The skewed distribution of wealth experienced in most developed countries, politically tolerated in periods of growth, became intolerable as growth rates declined. A combination of aging populations, accelerating technology, and global populism/nationalism promises to make this growth decline very difficult to reverse. What Larry Summers and other international political economists have come to call “secular stagnation” increases the likelihood that illiberal globalization, multipolarity, and rising nationalism will define our future. Summers11 has argued that the world is entering a long period of diminishing economic growth. He suggests that secular stagnation “may be the defining macroeconomic challenge of our times.” Julius Probst, in his recent assessment of Summers’ ideas, explains:

…rich countries are ageing as birth rates decline and people live longer. This has pushed down real interest rates because investors think these trends will mean they will make lower returns from investing in future, making them more willing to accept a lower return on government debt as a result.

Other factors that make investors similarly pessimistic include rising global inequality and the slowdown in productivity growth…

This decline in real interest rates matters because economists believe that to overcome an economic downturn, a central bank must drive down the real interest rate to a certain level to encourage more spending and investment… Because real interest rates are so low, Summers and his supporters believe that the rate required to reach full employment is so far into negative territory that it is effectively impossible.

…in the long run, more immigration might be a vital part of curing secular stagnation. Summers also heavily prescribes increased government spending, arguing that it might actually be more prudent than cutting back – especially if the money is spent on infrastructure, education and research and development.

Of course, governments in Europe and the US are instead trying to shut their doors to migrants. And austerity policies have taken their toll on infrastructure and public research. This looks set to ensure that the next recession will be particularly nasty when it comes… Unless governments change course radically, we could be in for a sobering period ahead.12

The rise of nationalism/populism is both cause and effect of this economic outlook. Lower growth will make every aspect of the liberal order more difficult to resuscitate post-Trump. Domestic politics will become more polarized and dysfunctional, as competition for diminishing resources intensifies. International collaboration, ad hoc or through institutions, will become politically toxic. Protectionism, in its multiple forms, will make economic recovery from “secular stagnation” a heavy lift, and the liberal hegemonic leadership and strong institutions that limited the damage of previous downturns, will be unavailable. A clear demonstration of this negative feedback loop is the economic damage being inflicted on the world by Trump’s trade war with China, which— despite the so-called phase one agreement—has predictably escalated from negotiating tactic to imbedded reality, with no end in sight. In a world already suffering from inadequate investment, the uncertainties generated by this confrontation will further curb the investments essential for future growth. Another demonstration of the intersection of structural forces is how populist-motivated controls on immigration (always a weakness in the hyper-globalization narrative) deprives developed countries of Summers’ recommended policy response to secular stagnation, which in a more open world would be a win-win for rich and poor countries alike, increasing wage rates and remittance revenues for the developing countries, replenishing the labor supply for rich countries experiencing low birth rates.

Illiberal Globalization

Economic weakness and rising nationalism (along with multipolarity) will not end globalization, but will profoundly alter its character and greatly reduce its economic and political benefits. Liberal global institutions, under American hegemony, have served multiple purposes, enabling states to improve the quality of international relations and more fully satisfy the needs of their citizens, and provide companies with the legal and institutional stability necessary to manage the inherent risks of global investment. But under present and future conditions these institutions will become the battlegrounds—and the victims—of geopolitical competition. The Trump Administration’s frontal attack on multilateralism is but the final nail in the coffin of the Bretton Woods system in trade and finance, which has been in slow but accelerating decline since the end of the Cold War. Future American leadership may embrace renewed collaboration in global trade and finance, macroeconomic management, environmental sustainability and the like, but repairing the damage requires the heroic assumption that America’s own identity has not been fundamentally altered by the Trump era (four years or eight matters here), and by the internal and global forces that enabled his rise. The fact will remain that a sizeable portion of the American electorate, and a monolithically pro- Trump Republican Party, is committed to an illiberal future. And even if the effects are transitory, the causes of weakening global collaboration are structural, not subject to the efforts of some hypothetical future US liberal leadership. It is clear that the US has lost respect among its rivals, and trust among its allies. While its economic and military capacity is still greatly superior to all others, its political dysfunction has diminished its ability to convert this wealth into effective power.13 It will furthermore operate in a future system of diffusing material power, diverging economic and political governance approaches, and rising nationalism. Trump has promoted these forces, but did not invent them, and future US Administrations will struggle to cope with them.

What will illiberal globalization look like? Consider recent events. The instruments of globalization have been weaponized by strong states in pursuit of their geopolitical objectives. This has turned the liberal argument on behalf of globalization on its head. Instead of interdependence as an unstoppable force pushing states toward collaboration and convergence around market-friendly domestic policies, states are exploiting interdependence to inflict harm on their adversaries, and even on their allies. The increasing interaction across national boundaries that globalization entails, now produces not harmonization and cooperation, but friction and escalating trade and investment disputes.14 The Trump Administration is in the lead here, but it is not alone. Trade and investment friction with China is the most obvious and damaging example, precipitated by China’s long failure to conform to the World Trade Organization (WTO) principles, now escalated by President Trump into a trade and currency war disturbingly reminiscent of the 1930s that Bretton Woods was designed to prevent. Financial sanctions against Iran, in violation of US obligations in the Joint Comprehensive Plan Of Action (JCPOA), is another example of the rule of law succumbing to geopolitical competition. Though more mercantilist in intent than geopolitical, US tariffs on steel and aluminum, and their threatened use in automotives, aimed at the EU, Canada, and Japan,15 are equally destructive of the liberal system and of future economic growth, imposed as they are by the author of that system, and will spread to others. And indeed, Japan has used export controls in its escalating conflict with South Korea16 (as did China in imposing controls on rare earth,17 and as the US has done as part of its trade war with China). Inward foreign direct investment restrictions are spreading. The vitality of the WTO is being sapped by its inability to complete the Doha Round, by the proliferation of bilateral and regional agreements, and now by the Trump Administration’s hold on appointments to WTO judicial panels. It should not surprise anyone if, during a second term, Trump formally withdrew the US from the WTO. At a minimum it will become a “dead letter regime.”18

As such measures gain traction, it will become clear to states—and to companies—that a global trading system more responsive to raw power than to law entails escalating risk and diminishing benefits. This will be the end of economic globalization, and its many benefits, as we know it. It represents nothing less than the subordination of economic globalization, a system which many thought obeyed its own logic, to an international politics of zero-sum power competition among multiple actors with divergent interests and values. The costs will be significant: Bloomberg Economics estimates that the cost in lost US GDP in 2019- dollar terms from the trade war with China has reached $134 billion to date and will rise to a total of $316 billion by the end of 2020.19 Economically, the just-in-time, maximally efficient world of global supply chains, driving down costs, incentivizing innovation, spreading investment, integrating new countries and populations into the global system, is being Balkanized. Bilateral and regional deals are proliferating, while global, nondiscriminatory trade agreements are at an end.

Economies of scale will shrink, incentivizing less investment, increasing costs and prices, compromising growth, marginalizing countries whose growth and poverty reduction depended on participation in global supply chains. A world already suffering from excess savings (in the corporate sector, among mostly Asian countries) will respond to heightened risk and uncertainty with further retrenchment. The problem is perfectly captured by Tim Boyle, CEO of Columbia Sportswear, whose supply chain runs through China, reacting to yet another ratcheting up of US tariffs on Chinese imports, most recently on consumer goods:

We move stuff around to take advantage of inexpensive labor. That’s why we’re in Bangladesh. That’s why we’re looking at Africa. We’re putting investment capital to work, to get a return for our shareholders. So, when we make a wager on investment, this is not Vegas. We have to have a reasonable expectation we can get a return. That’s predicated on the rule of law: where can we expect the laws to be enforced, and for the foreseeable future, the rules will be in place? That’s what America used to be.20

The international political effects will be equally damaging. The four structural forces act on each other to produce the more dangerous, less prosperous world projected here. Illiberal globalization represents geopolitical conflict by (at first) physically non-kinetic means. It arises from intensifying competition among powerful states with divergent interests and identities, but in its effects drives down growth and fuels increased nationalism/populism, which further contributes to conflict. Twenty-first-century protectionism represents bottom-up forces arising from economic disruption. But it is also a top-down phenomenon, representing a strategic effort by political leadership to reduce the constraints of interdependence on freedom of geopolitical action, in effect a precursor and enabler of war. This is the disturbing hypothesis of Daniel Drezner, argued in an important May 2019 piece in Reason, titled “Will Today’s Global Trade Wars Lead to World War Three,”21 which examines the pre- World War I period of heightened trade conflict, its contribution to the disaster that followed, and its parallels to the present:

Before the First World War started, powers great and small took a variety of steps to thwart the globalization of the 19th century. Each of these steps made it easier for the key combatants to conceive of a general war. We are beginning to see a similar approach to the globalization of the 21st century. One by one, the economic constraints on military aggression are eroding. And too many have forgotten—or never knew—how this played out a century ago.

…In many ways, 19th century globalization was a victim of its own success. Reduced tariffs and transport costs flooded Europe with inexpensive grains from Russia and the United States. The incomes of landowners in these countries suffered a serious hit, and the Long Depression that ran from 1873 until 1896 generated pressure on European governments to protect against cheap imports.

…The primary lesson to draw from the years before 1914 is not that economic interdependence was a weak constraint on military conflict. It is that, even in a globalized economy, governments can take protectionist actions to reduce their interdependence in anticipation of future wars. In retrospect, the 30 years of tariff hikes, trade wars, and currency conflicts that preceded 1914 were harbingers of the devastation to come. European governments did not necessarily want to ignite a war among the great powers. By reducing their interdependence, however, they made that option conceivable.

…the backlash to globalization that preceded the Great War seems to be reprised in the current moment. Indeed, there are ways in which the current moment is scarier than the pre-1914 era. Back then, the world’s hegemon, the United Kingdom, acted as a brake on economic closure. In 2019, the United States is the protectionist with its foot on the accelerator. The constraints of Sino-American interdependence—what economist Larry Summers once called “the financial balance of terror”—no longer look so binding. And there are far too many hot spots—the Korean peninsula, the South China Sea, Taiwan—where the kindling seems awfully dry.

### FTC DA---1NC

Next off is the FTC DA

#### FTC’s increasing enforcement in privacy now---it’s focused on algorithmic bias.

James V. Fazio 21. Special counsel in the Intellectual Property Practice Group at Sheppard, Mullin, Richter & Hampton LLP, with Liisa M. Thomas, 3/11. “What Is FTC’s Course Under Biden?” https://www.natlawreview.com/article/what-ftc-s-course-under-biden

The new acting FTC chair, Rebecca Kelly Slaughter, recently signaled that the FTC may increase enforcement and penalties in the privacy and data security realm. Slaughter pointed to several areas of focus for the FTC this year, which companies will want to keep in mind: Notifying Consumers About FTC Allegations: Slaughter referred favorably to two recent cases: (1) the Everalbum biometric settlement from earlier this year (which we wrote about at the time); and (2) the Flo Health settlement over alleged deceptive data sharing practices (which we also wrote about at the time). In drawing on these two cases, Slaughter indicated that in future cases the FTC intends to include as part of any settlement a requirement to notify customers of any FTC allegations. This, she said, would allow consumers to “vote with their feet” and help them decide whether to recommend their services to others. FTC Intent to Plead All Relevant Violations: According to Slaughter, another lesson the FTC is taking from the Flo case is to include in the cases it brings all potentially applicable violations of all relevant privacy-related laws. In the Flo case, Slaughter said the FTC should have pleaded a violation of the Health Breach Notification Rule, which requires that vendors of personal health records notify consumers of data breaches. Focus on Ed Tech and COPPA: Given the explosive growth of education technology during COVID-19, the FTC is conducting an industry sweep of the industry. Related to this, the FTC is reviewing its Children’s Online Privacy Protection Act Rule. This goes beyond the refresh the agency did of their FAQs earlier in the pandemic (which we wrote about at the time). For now, Slaughter reminds companies that parental consent is needed before collecting information online from children under the age of 13. Examination of Health Apps: The FTC will take a closer look at health apps, including telehealth and contact tracing apps, as more and more consumers are relying on such apps to manage their health during the pandemic. Overlap Between Competition and Privacy: Slaughter also indicated that it is worth looking at situations where there may be not only privacy concerns, but antitrust as well. Because the FTC has a dual mission (consumer protection and competition) she notes that it has a “structural advantage” over other regulators in that it can look at these issues, especially since -she states- “many of the largest players in digital markets are as powerful as they are because of the breadth of their access to and control over consumer data.” Racial Equality and AI/Biometrics/Geotracking: Slaughter noted that COVID-19 is exacerbating racial inequities. She pointed to the unequal access to technology, as well as algorithmic discrimination (the idea that discrimination offline becomes embedded into algorithmic system logic). The FTC intends to focus on algorithmic discrimination, as well as on the discrimination potentially embedded into facial recognition technologies. (This mirrors concerns that gave rise to the recent Portland facial recognition law, which we recently wrote about). Finally, Slaughter commented on the use of location data to identify characteristics of Black Lives Matter protesters, and said she is concerned about the misuse of location data to track Americans engaged in constitutionally protected speech. Putting it Into Practice: Companies that operate health apps, that are in the education technology space, or that use algorithms or facial recognition tools will want to keep in mind that these are areas of focus for the FTC. And for everyone, keep in mind that the FTC has indicated it will beef up privacy law penalties and will ask for more notification to injured consumers.

#### Antitrust enforcement saps up FTC resources and personnel, which are finite.

Tara L. Reinhart, et al. 21. \*\*Head of Skadden, Arps, Slate, Meagher & Flom LLP’s Antitrust/Competition Group. \*\*Steven C. Sunshine, Co-head of Skadden, Arps, Slat, Meagher & Flom LLP’s Antitrust/Competition Group. \*\*David P. Whales, antitrust lawyer with over 25 years of experience in both private and public sectors. \*\*Julia Y. York, partner at Skadden, Arps, Slat, Meagher & Flom LLP. \*\*Bre Jordan, associate at Skadden, Arps, Slat, Meagher & Flom LLP focusing on antitrust law. “Lina Khan’s Appointment as FTC Chair Reflects Biden Administration’s Aggressive Stance on Antitrust Enforcement.” 6/18/21. https://www.skadden.com/insights/publications/2021/06/lina-khans-appointment-as-ftc-chair

Second, like all antitrust enforcers, Ms. Khan and the FTC will face resource constraints. Bringing antitrust litigation is an expensive and laborious process, often requiring millions of dollars for expert fees and a large army of FTC staff attorneys and taking many months or even years to accomplish. Typically, the FTC can only litigate a handful of antitrust matters at a time. It seems likely that Congress will provide more funding to the FTC in the current environment, but even with these extra resources, the FTC will still have to pick its cases carefully and cannot challenge every deal or every instance of alleged unlawful conduct.

#### FTC enforce the plan, plan causes resource tradeoff.

Kristen Tam & Olivia Bielskis, 21. Tam is a writer at UCLA Undergraduate Law Journal, Bielskis is a Legal assistant at Tenants Law firm, BA from UCLA in Communications and a B.A. in Sociology "Stimulating Antitrust Enforcement to Expand the Regenerative Agriculture Movement." April 1, 2021. UCLA Library Prize for Undergraduate Research, https://escholarship.org/uc/item/0m16g2r5

Congress created three major Federal antitrust laws to maintain competition in the marketplace: The Sherman Antitrust Act, the Clayton Antitrust Act and the Federal Trade Commission Act.50 The first of the antitrust laws, The Sherman Antitrust Act was enacted in 1890 with the purpose of protecting interstate and foreign trade by outlawing contracts, combinations, conspiracies, and anticompetitive conduct that unreasonably restrained trade.51 The Act is not violated when one firm’s vigorous competition and lower prices take sales from its less efficient competitors; in this case, the Courts state that competition is working properly.52 While the Sherman Act imposes a more onerous burden of proving actual unreasonable restraints, Congress created the Clayton Act to require proof only of potential anticompetitive effect.53 The Act intends to prevent practices that suppress competition and give large businesses undue advantages over small businesses, as well as to prohibit mergers and acquisitions that are likely to lessen competition.54

There are three key elements that help uphold United States antitrust laws and affect the level of enforcement. The first is jurisprudential doctrines that the courts develop.55 Judicial decisions may limit or expand the reach of antitrust laws by setting precedents that alter the government’s ability to challenge certain types of cases. The second is the prosecutorial discretion that enforcers, the DOJ, the FTC, and the state attorneys general, employ.56 Because these agencies determine what does and does not violate antitrust laws, a change in the enforcement discretion or philosophy of enforcers may affect the intensity of regulation. The third is the fiscal resources provided to the enforcers.57 Judicial rules that increase or decrease the cost and barrier to entry to pursue cases can affect the number of antitrust cases brought to trial.

#### That trades off with the necessary resources for privacy enforcement.

John O. McGinnis\* and Linda Sun\*\* 20. \*George C. Dix Professor, Northwestern University, and Associate-Designate, Wilmer Pickering Hale & Dorr LLP. “Unifying Antitrust Enforcement for the Digital Age.” Northwestern Public Law Research Paper No. 20-20. https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3669087

The FTC needs more resources to adequately address the nation’s growing privacy concerns. Currently, the FTC oversees both consumer protection—encompassing privacy—and antitrust,249 making the FTC the chief federal agency on privacy policy and enforcement250 and the nation’s de-facto privacy agency.251 The agency has long-standing experience in enforcing privacy statutes252 and also has special privacy assets, such as an internet lab capable of high-quality tech forensics to track invasions of privacy.253 The FTC, however, has failed to keep pace with the massive growth of privacy concerns—a phenomenon also driven by modern technology. Very few Americans feel conﬁdent in the privacy of their information in the digital age.254 According to a 2019 study, over 80% of Americans feel that they have little to no control over the data collected on them by companies and the government.255 To adequately address privacy concerns, the FTC needs more resources.256 The agency has been explicit that it needs more manpower to police tech companies. In requesting increased funding from Congress, FTC Director Joseph Simons said the money would allow the agency to hire additional staff and bring more privacy cases.257 A former director of the FTC’s Bureau of Consumer Protection, which houses the privacy unit, has called the FTC “woefully understaffed.”258 As of the spring of 2019, the FTC had only forty employees dedicated to privacy and data security, compared to 500 and 110 employees at comparable agencies in the UK. and Ireland, respectively.259 Without more lawyers, investigators, and technologists, the FTC will be forced to conduct privacy investigations less thoroughly, and in some cases, forgo them altogether.260 Currently, the FT C’s resources are spread thin across multiple missions, to the detriment of its privacy efforts. Removing the agency’s antitrust responsibilities would reallocate resources from the antitrust department to its privacy unit and other areas of consumer protection. Further, it would free up the scarce time of the commissioners to oversee this essential effort.261

#### Unchecked algorithmic bias risks massive inequality and extinction.

Mike Thomas 20. Quoting AI experts including MIT Physics Professors, Senior Features Writer for BuiltIn. THE FUTURE OF ARTIFICIAL INTELLIGENCE: 7 ways AI can change the world for better ... or worse, Updated: April 20, 2020, <https://builtin.com/artificial-intelligence/artificial-intelligence-future>

Klabjan also puts little stock in extreme scenarios — the type involving, say, murderous cyborgs that turn the earth into a smoldering hellscape. He’s much more concerned with machines — war robots, for instance — being fed faulty “incentives” by nefarious humans. As MIT physics professors and leading AI researcher Max Tegmark put it in a 2018 TED Talk, “The real threat from AI isn’t malice, like in silly Hollywood movies, but competence — AI accomplishing goals that just aren’t aligned with ours.” That’s Laird’s take, too. “I definitely don’t see the scenario where something wakes up and decides it wants to take over the world,” he says. “I think that’s science fiction and not the way it’s going to play out.” What Laird worries most about isn’t evil AI, per se, but “evil humans using AI as a sort of false force multiplier” for things like bank robbery and credit card fraud, among many other crimes. And so, while he’s often frustrated with the pace of progress, AI’s slow burn may actually be a blessing. “Time to understand what we’re creating and how we’re going to incorporate it into society,” Laird says, “might be exactly what we need.” But no one knows for sure. “There are several major breakthroughs that have to occur, and those could come very quickly,” Russell said during his Westminster talk. Referencing the rapid transformational effect of nuclear fission (atom splitting) by British physicist Ernest Rutherford in 1917, he added, “It’s very, very hard to predict when these conceptual breakthroughs are going to happen.” But whenever they do, if they do, he emphasized the importance of preparation. That means starting or continuing discussions about the ethical use of A.G.I. and whether it should be regulated. That means working to eliminate data bias, which has a corrupting effect on algorithms and is currently a fat fly in the AI ointment. That means working to invent and augment security measures capable of keeping the technology in check. And it means having the humility to realize that just because we can doesn’t mean we should. “Our situation with technology is complicated, but the big picture is rather simple,” Tegmark said during his TED Talk. “Most AGI researchers expect AGI within decades, and if we just bumble into this unprepared, it will probably be the biggest mistake in human history. It could enable brutal global dictatorship with unprecedented inequality, surveillance, suffering and maybe even human extinction. But if we steer carefully, we could end up in a fantastic future where everybody’s better off—the poor are richer, the rich are richer, everybody’s healthy and free to live out their dreams.”

### Regulations CP---1NC

Next off is the Regulation Counterplan

#### The United States federal government should increase prohibitions on undemocratic governance by agricultural cooperatives through non-antitrust regulations.

#### The counterplan PICs out of anti-trust legislation and the FTC and DOJ as enforcers---other agencies’ regulations solve.

Lawrence Fullerton et al. 08. Joel M Mitnick, William V Reiss, George C Karamanos and Owen H Smith. Sidley Austin LLP. Vertical Agreements The regulation of distribution practices in 34 jurisdictions worldwide. “United States.” https://www.sidley.com/-/media/files/publications/2008/03/getting-the-deal-through--vertical-agreements-2008/files/view-united-states-chapter/fileattachment/united-states-21.pdf

5 What entity or agency is responsible for enforcing prohibitions on anticompetitive vertical restraints? Do governments or ministers have a role?

The Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DoJ) are the two federal agencies responsible for the enforcement of federal antitrust laws. The FTC and the DoJ have jurisdiction to investigate many of the same types of conduct, and therefore have adopted a clearance procedure pursuant to which matters are handled by whichever agency has the most expertise in a particular area.

Additionally, other agencies, such as the Securities and Exchange Commission and Federal Communications Commission, maintain oversight authority over regulated industries pursuant to various federal statutes, and therefore may review vertical restraints for anti-competitive effects.

**Plan doesn’t solve, regs does**

Connor **Nolan, 20**. J.D. Candidate, University of Arizona James E. Rogers College of Law. “A Cry for Spilled Milk: Fixing the Problems of America Begins with Cleaning Up Dairy's Woes.” Yale Big Ag and Antitrust Conference January 2020. https://law.yale.edu/sites/default/files/area/center/leap/document/yale-big-ag-and-antitrust-conference-guide.pdf

To accomplish these changes, a rise in Antitrust enforcement at the state level is needed. While Antitrust enforcement has traditionally come from the federal level, attorneys in New York, San Francisco, and Washington DC lack the practical knowledge necessary to stop anticompetitive conduct. The promotion of state enforcement, through hiring dedicated Antitrust attorneys, will lead to enforcers having better knowledge of the local market. State enforcement may also have a greater deterring quality.

However, **Antitrust alone is not enough to restore small farms’ vitality**. Creative policy solutions must also be put in place. These solutions should start with procuring schools’ buying power, rebuilding local supply chains, and incentivizing small farmers to diversify production. Schools purchase 8% of the fluid milk market. Utilizing this buying power can keep local farmers in business and diminish the climate impact of purchasing milk from large farms located outside the region. Rebuilding local supply chains can be achieved by bringing rural America’s vacant main streets back to life. Rather than subsidizing large farms’ overproduction, the government should spur market activity by reallocating money into unsubsidized loans or grants that incentivize investment into local grocers and diners. As a condition of the loan or grant, the businesses would purchase goods from qualifying regional farms. Finally, small dairy farmers 23 should be incentivized to diversify their production. Diversifying production creates similar results to supply management but does not have the negative effect of diminishing output.

## Adv 1 --- Regional Food

### Circumvention---1NC

#### Expand the scope of antitrust refers exclusively to formal law not enforcement---the plan is circumvented.

Sinisa Milosevic et al. 18. Commission for Protection of Competition, The Republic of Serbia. Dejan Trifunovic, Faculty of Economics, University of Belgrade, Belgrade, The Republic of Serbia. Jelena Popovic Markopoulos, Commission for Protection of Competition, The Republic of Serbia. “The Impact of the Competition Policy on Economic Development in the Case of Developing Countries”. Economic Horizons, May - August 2018, Volume 20, Number 2, 153 – 167. http://scindeks-clanci.ceon.rs/data/pdf/1450-863X/2018/1450-863X1802157M.pdf

The paper that analyzes the impact of the competition policy on the GDP growth in developing and developed countries in the Solow growth model framework is T. C. Ma’s (2011). The presence and scope of the competition policy is captured by the SCOPE variable that is defined in the paper by K. N. Hylton and F. Deng (2007). The overall effectiveness of the government’s application of policies, not only of the competition policy, is captured by the EFFICIENCY variable that is defined in the paper by D. Kaufmann, A. Kraay and M. Mastruzzi (2009). The results show that the SCOPE variable is not significant and the formal existence of the competition law cannot influence economic growth. The interacting variable of SCOPE x EFFICIENCY is named EFFLAW. For poor countries, the coefficient for this variable is 0.04 and is significant, whereas for rich countries the coefficient is 0.064 and is also significant. Therefore, the competition law must be complemented with the effective enforcement of this policy.

### Co-Op Survival Unlikely

#### Survival of co-ops on a large scale is unlikely with or without antitrust reform

Thomas W. Gray, PhD and Charles A. Kraenzle, PhD, 02. Researchers at the U.S. Department of Agriculture’s Rural Business-Cooperative Service. “Problems and Issues Facing Farmer Cooperatives.” U.S. Department of Agriculture Rural Development Rural Business-Cooperative Service Research Report 192. September 2002. <https://www.rd.usda.gov/files/RR192.pdf>

The responses from cooperatives primarily dealt with two aspects of the agricultural economy, the survival of farmers and farms, and the survival of cooperatives. The differences between “past year” responses and the “near future” primarily dealt with emphasis. “Past year” responses cited immediate difficulties, while future responses focused more on larger structural issues. Survival of farmers and farms reflected various influences that affected producer profitability. Low commodity prices were understood as pervasive both in the past and expected in the future and partly due to excess supply, driven by expansion of domestic commodities in some regions, as well as an increase in the importation of cheaply produced foreign goods. Producers were faced with low commodity prices, and with increasing costs of fertilizers, energy sources, and labor in some instances. In some regions, weather conditions reduced local volumes. Under such conditions producer profitability drops, and survival becomes more difficult. Poor earnings forced some farmers to discontinue operations. Others quit due to retirement, urbanization, and health problems. Some developed strategies to stay in business. Many sought greater volumes by expanding both vertically and horizontally. Some engaged in contract production or used other practices (Internet purchases and sales) to improve the overall farm efficiency. Many of these dynamics have direct impact on cooperative survivability. Fewer farmers can result in reductions in local volumes, commodities sold, and supplies and services purchased. Larger farmers with greater volumes may also bypass local cooperatives and go direct to terminals. Others that do not bypass the local may want better deals from their cooperatives. Those who contract with investor-owned firms (IOFs) drain volume from cooperatives. Cooperatives themselves, must operate in an environment of increasing costs coupled with reduced volumes, low prices, and increased costs, each contributing to low margins.

### Alt Causes to Co-Op Strength

#### Sixteen alt causes to low co-op strength besides ag consolidation

Thomas W. **Gray**, PhD **and** Charles A. **Kraenzle**, PhD, **02**. Researchers at the U.S. Department of Agriculture’s Rural Business-Cooperative Service. “Problems and Issues Facing Farmer Cooperatives.” U.S. Department of Agriculture Rural Development Rural Business-Cooperative Service Research Report 192. September 2002. <https://www.rd.usda.gov/files/RR192.pdf>

These responses were reviewed and a classification scheme was developed to summarize like responses. If a cooperative reported more than one problem, up to three were classified. As a result, the number of responses exceeded the number of cooperatives responding. A total of 1,496 responses were recorded for the current year and 1,565 responses for the near future. More problems or issues were identified for the future by fewer cooperatives. Seventeen problem areas or classifications were identified. Here are the classifications used in the study with some examples of problems reported by cooperatives: Accounts Receivable—Includes high and/or overdue “accounts receivable,” “customers inability to pay accounts,” “credit,” and “cash flow” problems. Agricultural Economy—Includes “changes in agriculture structure,” “depressed farm economy,” “declining number of farmers,” “decrease in production,” “losing the small family farms,” “encroachment from development,” and “declining net income of farmers. It puts pressure on them to cut back on input usage.” Competition—Includes cooperatives “competing with large co-ops and processors,” “competing with suppliers,” “competition from Internet vendors,” “competition from large national dealers in the retail business,” “contract selling by producers,” “direct sell1 ing of ag products to farmers,” “market for our product,” “fewer customers,” “price competition,” and “worldwide excess inventory. Consolidation—Includes “consolidation and integration of markets,” “consolidation of agriculture,” “consolidation and regional ownership of locals,” “retail consolidation,” and “mergers.” Technology—Involves “changing technology in farming,” “adapting to Internet trading,” “concern over e-business,” “brokers putting bids on internet and by-passing the local co-op,” “dealing with Internet trading,” “speed of changing technologies,” “transition to computer age,” and “meeting the demands of newer technologies to service our customer.” Genetically Modified Crops—considers “biotechnology,” “GMO (genetically modified organisms) grains,” “Starlink corn,” “biotech grain,” “Non-GMO vs GMO grain,” “segregating grains,” “marketing bio-tech grain and dealing with buyer’s call programs,” and “consumer acceptance of GMO grain.” Government regulation—covers “Government regulations,” “compliance issues,” “more Government intervention,” “fuel regulations,” “air pollution control issues,” “EPA-DEO-OSHA,” “safety issues, EPA,” and “keeping abreast of Government regulations.” Government programs—includes problems such as “a farm program that detours sales of farm inputs,” “drop in volume due to CRP (Conservation Reserve Program),” “loss of sales due to Federal Crop Insurance program,” “conserving the tobacco program,” “U.S. sugar policy,” “Government programs that idle agricultural land use,” and “farm policy for the farm bill of 2002.” Increasing costs—covers “high costs of fuels,” “rising labor costs,” “rising expenses,” “higher input costs,” “prices causing cash flow problems,” and “expense control.” Labor—includes problems associated with “hiring employees,” “attracting and retaining quality personnel,” “employee issues,” “finding competent labor,” “labor availability,” “labor costs,” “good quality employees who want to work the hours required,” and “personnel problems.” Low commodity prices—includes problems such as “low commodity prices,” “cheap grain prices,” “low milk prices,” “low prices for fresh fruits,” “low sugar prices,” “low farm prices,” “volatile prices,” and “sustainability in the face of depressed prices”. Operational—views a wide variety of problems associated with the internal operations of a cooperative. Included are such items as “business survival and profitability,” “cash flow,” “financing,” “debt management,” “equity management,” “getting more efficient,” “keeping co-op solvent,” “lack of income producing sales,” “survival,” “working through merger,” and “focus on direction for the future.” Other—includes responses such as “No,” “none,” “unknown,” “no major problems,” and “read annual report.” Transportation—considers “transportation issues,” “truck shortage and high fuel costs,” “adequate number of rail cars to ship grain,” “railroad abandonment,” and “timeliness of rail service.” Weather—includes problems related to “drought,” “crop failure due to drought,” “lack of moisture,” “quality of produce,” and “poor quality grain due to wet weather conditions.” Members—problems associated with “membership retention,” “attracting new members,” “lack of participation,” “non-loyalty of members,” “loss of members,” “smaller membership,” and “poor membership support.” Low margins—Involves problems and issues such as “cash flow,” “declining margins,” ”profitability,” “availability of funds,” “generating net income,” “lack of earnings in the agricultural industry,” and “getting through another year with minimum losses financially.”

### Food Shocks Defense

**Alt causes to food shocks**

Hinnerk **Gnutzmann** & Piotr **Spiewanowski,** **16**. “Did the Fertilizer Cartel Cause the Food Crisis?,” Beiträge zur Jahrestagung des Vereins für Socialpolitik 2016: Demographischer Wandel - Session: International Trade and Development, No. A19-V2, ZBW - Deutsche Zentralbibliothek für Wirtschaftswissenschaften, Leibniz-Informationszentrum Wirtschaft, Kiel und Hamburg. https://www.econstor.eu/bitstream/10419/145777/1/VfS\_2016\_pid\_6804.pdf

Food commodity prices escalated during the 2007/2008 food crisis, and have scarcely fallen since. We show that high fertilizer prices, driven by the formation of an international export cartel as well as **high energy prices,** explains the majority of the recent price spikes. In particular, we estimate the pure fertilizer cartel eect explains up to 50% of crisis food price increases. While **population growth, biofuels,** high energy prices and **financial speculation** doubtlessly put stress on food markets, our results help to understand the severity and sudden emergence of the crisis and suggest avenues to prevent its repetition.

**Food price volatility decreases conflict.**

Marc **Bellemare, 15**. Assistant Professor in the Department of Applied Economics at the University of Minnesota. “Rising Food Prices, Food Price Volatility, and Social Unrest,” *American Journal of Agricultural Economics*, Vol. 97, Iss. 1, p. 1-21, Emory Libraries.

Conclusion

Do food prices cause social unrest? The results in this article indicate that the answer to this question is a qualified “yes.” While rising food prices appear to cause food riots, food price volatility is at best **negatively associated** with and at worst unrelated to social unrest. These findings **go against** much of the prevailing rhetoric surrounding food prices. Indeed, whereas many in the media and among policy makers were quick to blame food price volatility for the food riots of 2008 and of 2010–2011, the **empirical results** in this article indicate that rising food price levels are to blame and that increases in food price volatility may actually **decrease** the number of food riots. Additionally, specifications that focus on food price volatility at the expense of food price levels show that the latter is not statistically significantly related to the former. These findings are **in line** with those in the applied microeconomics literature on the impacts of rising food prices (Deaton 1989) and of food price volatility (Bellemare, Barrett, and Just 2013). Moreover, the finding that increases in the level of food prices cause social unrest appears to be driven by the food crises of 2008 and of 2010–2011.

### Big Farms k2 Food

#### Big farms sustain the entire food supply – small farms are inefficient and expensive

Christina NuñEz 15. Editor for Global Citizen. Studied Global Studies at the University of California Santa Barbara. "What’s better for the world: local farms or large agribusiness?" Global Citizen. 2-16-2015. https://www.globalcitizen.org/en/content/whats-better-for-the-world-local-farms-or-large-ag/

One of my core beliefs is the importance of acting as a conscious consumer. It’s dictated everything from my fashion choices to my diet, and it’s something I’m always working to improve. As such, I’m a strong believer in supporting small, local farms. I believe they are better for the environment, better for the farmers, and they produce healthier, tastier food. Not like some of those industrial farms who exploit their workers, abuse their animals, and pollute our planet. In the battle of small, local farms vs. large agribusiness, I assumed the former were the victor- case closed. But you know what they say about assumptions… A shocking conversation with my respected colleague, Tom Blake, shattered everything I knew to be true. Always playing the devil’s advocate, he argued that large farms could actually be better for the planet and its people. I thought it was just him, but a little research proved I was wrong again. So who’s right- Tom, or me? As it turns out, maybe neither of us are right. It’s a complicated issue, with a lot of factors that sometimes seem to contradict one another. The best I can do is lay out the information I have, and let you draw your own conclusions: 1. Small farms that grow multiple crops are less efficient than large ones A soybean farm in Lost River, Indiana, USA. | Flickr: Cindy Cornett Seigle There are a few reasons for this. For one, large farms can afford fancy machinery. They also tend to engage in monocropping- growing the same crop year after year- which is, well, more efficient for a lack of a better word. 2. Large farms make food more affordable Because industrial farms are larger and more efficient, they are able to sell their food for less. This is great news for people with less disposable income. Actually, it’s great news for everyone. But some industrial farms find other ways to keep their prices low that aren’t so good… 3. Large farms have a bad rep for exploiting their workers in order to turn a profit In Central America, for instance, some industrial farms have come under fire for their low pay, long hours, and just plain inhumane working conditions. Affordable food is great, but not when it comes at the cost of workers’ rights. That said, not all industrial farms fall under this category. In fact there are many that treat their workers exceptionally well- it all depends on the farm, and the regulations that are in place. 4. Small farms benefit their communities Farmers Market in Santa Barbara, CA. | Flickr: Terry Straehley Tamar Haspel of the Washington Post explains that these types of farms are valuable because they contribute to a sense of community, “keep spaces open”, and they remind people that “food doesn’t just appear”. I’ll never forget the first time I went apple picking in the fall. Picking the apples directly from the trees made me appreciate and savor the fruit so much more- a completely different experience from mindlessly selecting apples at the supermarket. And who doesn’t love strolling through the farmers market? 5. Large farms that use lots of chemicals have damaged the environment Haspel writes that “according to the EPA, agriculture is the biggest source of pollution of lakes and rivers, and the recent shutdown of Toledo, Ohio’s, water supply because of toxins produced by bacteria is Exhibit A for agriculture’s environmental impact.” Basically, because large farms tend to grow fewer varieties of crops than smaller ones, they must rely on chemical fertilizers and pesticides to restore the soil. But that’s not to say that all large ones pollute and all small farms don’t- we’re talking generally here. 6. Shipping food internationally is bad for environment (duh) Pretty sure this one is self-explanatory. It’s a safe bet that buying local is the “greener” choice simply because it had to travel less far to get to you. (This is more of an international issue than a domestic one.) 7. BUT food that is shipped from other countries tends to be cheaper than food produced in the US, for example A coffee farm worker in Cauca, southwestern Colombia. | Flickr: Neil Palmer/ CIAT There are different reasons for this. For one, farm workers in developing countries are paid less (not necessarily because they are being exploited; the cost of living is lower too). Also, a lot of us have grown accustomed to eating our favorite foods year-round, even when they don’t naturally grow year-round or grow in the region where we live. This means that crop x might be cheaper to grow abroad, in a region that’s better suited for it. 8. We rely on large farms to produce the food that goes to to countries in need since they are the most efficient and the most affordable Now let me be clear: I’m not suggesting this is a reason to support large agribusiness over local farms. After all, the majority of these farms are not in business to support food aid. I’m just pointing out that they provide a needed service that small local farms in developed countries can not. So where does that leave us in the battle of small, local farms vs. large agribusiness? Haspel sums it up rather nicely: “Small farms are inefficient but are more likely to grow healthful foods and might be more environmentally friendly, while large farms are sometimes environmentally unfriendly but raise large amounts of food efficiently and affordably.”

#### ?Small farms are not key to

View All, 10-9-2020, "Are small farms more performant than larger ones in developing countries?," Science Advances, <https://www.science.org/doi/10.1126/sciadv.abb8235>

Future directions include widening the framework of performance from a productive/economic dimension to a sustainability one, by including environmental and social aspects. The environmental dimension can initially be explored by reinforcing a detailed description of activities and crops, starting, for example, with the average number of crops per land unit (i.e., basic agrobiodiversity assessment). Energy use, soil loss, and GHG emissions data would ideally then be considered in such an environmental assessment. Next steps to assess the sustainability of farms would involve the social pillar, considering for instance the dynamics of the labor force used in agriculture and its repercussions on the community. Moreover and given that smallholders will remain the most important share of rural households (34, 88, 89), specifically testing poverty and food and nutrition security indicators performance against the size of farms could provide relevant orientation for targeted support programs. Some implications for development Focusing development aid intervention on agriculture remains a valid recommendation, based on its advantage in terms of multiplier effects over other sectors of the economy, especially in SSA (90–92). Among other drivers, development policies are influenced by the idea that small farms produce more per hectare than larger ones and, thus, advocate advancement in agriculture to be driven by smallholders. Increasing gross output productivity can make a difference in terms of poverty reduction under high population density contexts (81) and for the most marginal farmers with limited or no access to off-farm or migration opportunities (55). Although output growth partially responds to the needs of rural development, the associated output indicators often entail a simplistic linkage between agricultural output increase and improvement in the disposable income of smallholder farming households. Evidence for SSA shows that successful strategies to improve food security are only dependent on agricultural output increases in the type of limited contexts mentioned above (93). In the short run, any support to this type of smallholders is fully justified both as social and agricultural sector development program. However, when considering the long run agricultural development strategy, factor market access (e.g., labor, land, credit, and insurance) shall be key as they have been identified as more determinant factors for poverty alleviation and food security improvements (93, 94), beyond simple agricultural output increases. In this sense, development policy must consider the results offered by economic indicators (e.g., net value or efficiency) as policy drivers in the long run. These indicators show not only the factor use by farmers but also the potential substitution among them, pointing to the best scale of holdings in a given current markets situation and/or the market conditions to promote for improving farm performance, independently of their size. On the basis of the results of the study these indicators show the potential for favoring the development of somewhat larger farms than the currently existing ones by, for instance, promoting long-term land rental markets enabling medium-sized farms in land-abundant countries (54, 87).

## Adv 2 --- Populism

### Populism Inevitable---1NC/2AC

#### Populism is structurally inevitable

Daron Acemoglu 11/6/20. Institute Professor at MIT. Trump Won’t Be the Last American Populist The Conditions That Produced Him Need to Be Understood to Be Addressed https://www.foreignaffairs.com/articles/united-states/2020-11-06/trump-wont-be-last-american-populist

Together with economic resentment has come a distrust of all kinds of elites. Much of the American public and many politicians now express a mounting hostility toward policymaking based on expertise. Trust in American institutions, including the judiciary, Congress, the Federal Reserve, and various law enforcement agencies, has collapsed. Neither Trump nor recent party polarization can be held solely to blame for this anti-technocratic shift. The almost complete rejection of scientific facts and competent, objective policymaking among many in the electorate and the Republican Party predates Trump and has parallels in other countries—Brazil, the Philippines, and Turkey to name a few. Without more deeply understanding the root of such suspicion, American policymakers can have little hope of convincing millions of people that better policies, designed by experts, will improve their lives enormously and reverse decades of decline. Nor can policymakers hope to put a lid on the discontent that fueled Trump’s rise.

POISONOUS SEEDS

Populist movements thrive on inequality and on resentment of elites. Yet these conditions alone don’t explain why American voters in 2016 turned right rather than left as inequality rose and the very wealthy benefited at ordinary people’s expense. In the United States, a right-wing populist movement stood ready to make itself the vehicle for the grievances of regular people and to marry those grievances to a stance that was anti-elite, nationalist, and often authoritarian.

Right-wing populism did not emerge in the United States because of Trump’s deranged charisma. Nor did it begin with the news media’s infatuation with his outrageous statements, or with Russian meddling, or with social media. Rather, right-wing populism resurged as a potent political force at least two decades before Trump’s takeover of the Republican Party—remember Pat Buchanan? And it has analogs all over the world, not just in mature democracies reeling from the loss of manufacturing jobs but in countries that have benefited economically from globalization, including Brazil, Hungary, India, the Philippines, Poland, and Turkey.

That the Republican Party would give itself over to such a movement—and to Donald Trump as its standard-bearer—was never a foregone conclusion. One can argue that Republicans supported Trump because he was willing to execute their agenda: cutting taxes, fighting regulation, and appointing conservative judges. Alas, this is only a small part of the story. Trump’s popularity surged based on positions diametrically opposed to Republican orthodoxy: restricting trade, increasing spending on infrastructure, helping and interfering with manufacturing firms, and weakening the country’s international role. One can point to skyrocketing rates of polarization before Trump or chide the role of money in politics. Yet these factors hardly explain the wholesale abandonment of many of the key policy tenets of a 150-year-old party. Before 2016, few would have believed that the Republican Party would try to dismiss and cover up meddling by a hostile government in a presidential election.

A GLOBAL UNRAVELING

Trump and Trumpism are American phenomena, but they arose within a context that is undeniably global. Under Boris Johnson in the United Kingdom, the Tory Party is transforming in a manner similar, if more benign, to that of the Republican Party. The French right has fallen behind the National Rally (the new name for the far-right National Front). And the Turkish right has remade itself in the image of a strongman, Recep Tayyip Erdogan. Together, these and other cases demonstrate not just polarization but a complete unraveling of the old political order.

How and why this unraveling has happened is not self-evident. The first place to look for an answer is in the major, crosscutting economic trends of the present era: globalization and the rise of digital and automation technologies, both of which have induced rapid social changes coupled with unshared gains and economic disruptions. As institutions proved unable or unwilling to protect those suffering from these transformations, they also destroyed public trust in establishment parties, the experts claiming to understand and better the world, and the politicians who appear complicit in the most disruptive changes and in cahoots with those who have stealthily benefited from them.

From this perspective, it isn’t sufficient to decry the collapse of civic behavior or even to defeat toxic populists and authoritarian strongmen. Those who seek to shore up democratic institutions must build new ones that can better regulate globalization and digital technology, altering their direction and rules so that the economic growth they foster benefits more people (and is perhaps faster and of a higher quality overall). Building trust in public institutions and experts requires proving that they work for the people and with the people.

## Adv 3 --- Modeling

### AT Rural Devel solves Urbanization

#### Urbanization is inevitable

Sir George Alleyne 11. Chancellor of the University of the West Indies, director emeritus of the Pan American Health Organisation and UN special envoy for HIV/Aids in the Caribbean. "Urbanisation is inevitable. Public health must embrace this fact." 2-3-2011. <https://www.theguardian.com/global-development/poverty-matters/2011/feb/03/urbanisation-health-systems>

The reality is that, all over the world, growing urbanisation is inevitable. In theory, the fact that people live closer to health providers in an urban setting should lead to greater health service delivery and equity. But this is not always the case, and delivering public health in urban areas, across emerging economies, while achieving the needed policy coordination across all levels of government, is a huge and largely unaddressed challenge. This was a point made repeatedly at the Emerging Markets Symposium on Urbanization, Health and Human Security, held at Oxford University in mid-January. The keynote speaker, Prof Sir Michael Marmot, president of the British Medical Association, had a simple message for countries about the need to better coordinate policy between government ministries: "Every minister is a minister of health," he said. Sustainable and affordable housing, water and sanitation, waste8y management, education, transport, parks and conservation areas: all these directly affect urban health. In addition to coordination across government ministries, national and city governments could coordinate their work better. All of this is true of the Caribbean – but the link between urbanisation and health is perhaps more apparent in places like Brazil, India, Pakistan and China, where demographic and socioeconomic change in urban areas are taking place on a much larger scale. Governments in such countries have to make key decisions on the organisation of health: what is the right division between public and private sector delivery of healthcare? How to support an insurance industry while health demands are changing at a tremendous pace? What kind of fiscal framework could improve preventive measures? The pace of urban change also means governments need to innovate to deliver affordable health services to large numbers of people. Low cost mobile communications, used by people trained with basic diagnostic skills and linked to health information systems, could benefit vast numbers of people; and centralised patient registers and data gathering for demographic forecasting and planning, for healthcare purposes and for public health frameworks, hold enormous potential. In this sense, we must also think of urban spaces as an opportunity for health: more people can be reached at once, in new ways, and hopefully at a lower cost. However, as recent floods in Brazil – and Australia – have shown, cities can be vulnerable to natural disasters, epidemics and other causes of large-scale social breakdown. Urbanisation carries with it a whole set of policy and planning imperatives. A majority of the world's population now lives in cities, producing a vast array of opportunities, but also dangers, challenges and responsibilities. As the balance of the global economy tips to new parts of the world, where the challenges of urbanisation are developing on an unprecedented scale – greater than anything that confronted European and American cities in the 19th and 20th century – we should call for governments to explore new paths for delivering those sanitary and social measures necessary for the health of their citizens, and to rethink how they organise themselves at city, national and international level to do so.

### AT Urbanization

#### Global institutions check unregulated third-world urbanization

Homi Kharas 15. Senior Fellow of Global Economy and Development at the Center for Sustainable Development. "The Transition from “The Developing World” to “A Developing World.”" Brookings. 1-9-2015. https://www.brookings.edu/on-the-record/the-transition-from-the-developing-world-to-a-developing-world/

2015 has been designated as the first-ever European Year for Development, an opportunity for the largest providers of development cooperation in the world, the European Union member states, to assure their citizens that their policies, money and innovation efforts are contributing to a better world. In May 2015, the World Education Forum will take place in Incheon, Korea. This is an important forum because the answer commonly given to some of the most pressing social sustainability problems of today—youth unemployment, social immobility, stagnant wages—is to improve education and skills for the 21st century. The forum should help outline what can be done to deliver quality education. Then, in July 2015, the United Nation’s third international conference on financing for development will be held in Addis Ababa, Ethiopia. At this conference, commitments should be made to help the least developed and most vulnerable countries, to create new channels for development finance that can handle the large volumes of investments that will be required to place economies on a low-carbon trajectory, and to ensure that businesses too are responsible and accountable for activities that contribute toward sustainable development. It is an important opportunity to get finance ministers to focus on sustainable development and for foreign ministers to establish priorities that can be met within current budget constraints. In September 2015, Heads of State and Government will gather in New York at the General Assembly to agree on a set of sustainable development goals for the next fifteen years. Intergovernmental negotiations are underway, but the broad outlines of the agreement have been laid out. It will be comprehensive in scope across sectors and themes, going beyond the Millennium Development Goals to incorporate infrastructure, jobs and growth, and peace, justice and inclusive societies. And it will be universal in application, going beyond aid to cover policies ranging from sustainable production and consumption patterns to the sharing of tax information. Finally, in December 2015, there is great anticipation that a historic agreement on combating climate change and its impacts will be concluded at the COP21 ministerial meeting in Paris. Any one of these events could be momentous. Together, they offer the best opportunity for our generation to create a road map for “a developing world”.Looking forward, the post-2015 agenda must take into account the extraordinary changes that have happened over the last fifteen years. The world cannot be subdivided any more into First World countries that provide aid and Third World countries that receive it. We cannot conceive of development any longer as something that is done “by” rich and systemically important countries “for” less advanced and smaller countries. In fact, when countries are able to take charge of their own development, when they are in the driver’s seat, they look for opportunities for trade, investment and technology transfer as much as for aid.

### AT Capper-Volstead is Modeled

#### Capper-Volstead is not modelled currently in a single developing country, and the aff can’t fiat that the developing countries adopt rulings modelling it – Emory reads blue

1ac Barnes 21—(\*JD from George Washington University; \*\*JD from Fordham University, former Vice-Chair of the ABA Antitrust Section’s Joint Conduct Committee). Donald M. Barnes & Jay L. Levine. April 2021. “Farmer Cooperatives "Take Cover": The Capper-Volstead Exemption is Under Siege”. Arkansas Law Review, Volume 74, Number 1. Accessed 10/2/21.

The United States is not the only country to have adopted an agricultural policy designed to afford certain protection to farmers; under the European Union’s common agricultural policy, certain behavior and practices by agricultural producer organizations, which might otherwise be considered as anticompetitive, are excluded from the scope of the European Union’s competition rules.188 It is not surprising, therefore, that current attempts to undermine and weaken the American farmers’ antitrust exemption could easily have international implications. Numerous foreign countries already use the United States’ antitrust law as a model, and several have adopted antitrust exemptions for agricultural cooperatives similar to the Capper Volstead Act.189

[Begin Footnote 189]

189. For example, Japan’s Anti-Monopoly Law of 1947, following the example of the Capper-Volstead Act, exempts certain agricultural cooperatives from its application. See Hiroshi Ashino, Experimenting with Anti-Trust Law in Japan, 3 JAPANESE ANN. INT’L L. 31, 31 (1959); Hiroshi Iyori, A Comparison of U.S.-Japan Antitrust Law: Looking at the International Harmonization of Competition Law, 4 PAC. RIM. L. & POL’Y J. 59, 66 (1995). Agricultural cooperatives in Europe are similarly exempted from liability under Article 81 of the European Community (“EC”) Treaty—Europe’s analog to the Sherman Act—by Regulation 26, adopted by the EC Council in 1962. Arie Reich, The Agricultural Exemption in Antitrust Law: A Comparative Look at the Political Economy of Market Regulation, 42 TEX. INT’L L.J. 843, 849-50 (2007). The United Kingdom’s Competition Act of 1998 contains an exemption for agricultural cooperatives patterned on the EC’s Regulation 26. Id. at 856. And Israel, which regulates competition under its Restrictive Trade Practices Law of 1988, provides an exemption to agricultural cooperatives under Article 3(4) of that Law. Id. at 857-58.

[End Footnote 189]

Farmers in developing economies have faced or will eventually face the same challenges as those that confronted American farmers at the time the Capper-Volstead Act was passed.190 They deserve the same protection. Their governments could easily adopt restrictive rulings from United States courts,191 which could keep their farmers from achieving effective collective bargaining power.

[Begin Footnote 191]

191. Indeed, foreign courts often find U.S. case law instructive in interpreting their own antitrust laws. See, e.g., Rural Press Ltd. v Australian Competition and Consumer Comm’n, (2003) 216 CLR 53, 88 (Austl.) (holding market-sharing arrangements per se invalid under the Australian Trade Practices Act, citing favorably to United States case-law holding such arrangements to be per se violations of the Sherman Act); R. v. Bugden’s Taxi

# 2NC v Minnesota FP

## Cap K

## Regulation CP

### AT: PDB---2NC

#### 2. “Do both” is antitrust duplication---the disputes collapse resources, effectiveness, and signaling.

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Disputes over clearance can have tangible adverse effects on enforcement. First, some have commented that delays caused by clearance disputes can narrow the efficacy of remedial options, particularly with mergers. As Sen. Richard Blumenthal has commented, “The Big Tech companies are not waiting for the agencies to finish their cases. They are structuring their companies so that you can’t unscramble the egg.” Structural remedies are favored by Delrahim, who has commented that alternative, behavioral remedies should be used sparingly: “The division has a strong preference for structural remedies over behavioral ones. … The Antitrust Division is a law enforcer and, even where regulation is appropriate, it is not equipped to be the ongoing regulator.”

Second, disputes over clearance and, more so, duplicative investigations waste agency resources, threaten to blunt their effectiveness, and can lead to inconsistent and confusing governmental positions. In the Sept. 17 oversight hearing, Simons and Delrahim were both criticized for requesting an increase in funding: “As you both acknowledged, both of you could use, and desperately need, more resources. That being the case, it makes no sense to me that we should have duplication of effort, when that has a tendency inevitably to undermine the effectiveness of what you’re doing.” Duplicative investigations dilute the specialization that is a principal goal of the agencies’ clearance agreement and raise the risk that one agency will take legal positions that undercut the other. No doubt the DOJ’s amicus brief in the Qualcomm case influenced the U.S. Court of Appeals for the Ninth Circuit’s decision to issue a stay pending appeal.

So how will the FTC and DOJ resolve their latest turf war? Perhaps they will revisit their clearance agreement and decide to split their authority by company or the business practice being investigated, based on prior agency experience, rather than by industry as Appendix A currently does. Or maybe Congress will decide to consolidate civil antitrust enforcement jurisdiction under one agency. That seems like a long shot considering the political implications. However, during the Senate’s antitrust oversight hearing, Sen. Josh Hawley proposed “cleaning up the overlap in jurisdiction by removing it from one agency” and “clearly designating enforcement authority to one agency.” One thing is sure—the agencies should not be duplicating civil antitrust investigations. Stay tuned.

#### 3. Specifically true for patent law.

Claire Guo 19. Juris Doctor, Peking University School of Transnational Law. Intersection of Antitrust Laws with Evolving FRAND Terms in Standard Essential Patent Disputes, 18 J. MARSHALL REV. INTELL. PROP. L. 259 (2019). Pg. 278

The practice of three major jurisdictions suggests that the intersection of FRAND terms and antitrust laws is not a fixed process. Instead, it changes as the stipulations of FRAND evolve to have clarity and transparency. In particular, the practice suggests a general trend of less antitrust intervention into FRAND breaches when concrete competition harm is not present. One reason is that when FRAND has expanded into negotiation protocols, mere disobedience of FRAND procedurally without follow-up actions, such as filing injunctions or excessive demand, could not possibly give rise to antitrust concerns. The other reason is that the parallel enforcement of FRAND and antitrust laws is duplicative to some extent. Both FRAND and antitrust laws could be used to address the monopoly power and abusive conducts of SEPs owners resulting from the standardization process. Assuming FRAND has functioned effectively as expected, additional antirust intervention seems redundant and risks upset the balance already reached by FRAND obligation.

### AT: PDCP---2NC

#### Perm do the CP. It’s severance---

#### “Expanding the scope” of “anti-trust laws” must be the DOJ and FTC.

Jarod Bona 21. Bona Law PC. "Five U.S. Antitrust Law Tips for Foreign Companies". Antitrust Attorney Blog. 1-16-2021. https://www.theantitrustattorney.com/five-u-s-antitrust-tips-foreign-companies/

1. Two federal and many state agencies enforce antitrust laws in the United States

The United States government has two separate antitrust agencies—the Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DOJ). The FTC is an independent federal agency controlled by several Commissioners, while the Antitrust Division of the DOJ is part of the Executive Branch, under the President.

Both of them enforce federal antitrust laws (among other laws). Their jurisdictions technically overlaps, but they tend to have informal agreements between each other for one or the other to handle certain industries or subjects. If you are part of a major industry, your antitrust lawyer may be able to tell you whether the DOJ or FTC is likely to oversee competition issues in your field.

#### 2. Jurisdiction: the plan expands the DOJ and FTC role.

Babette E. Boliek 11. Associate Professor of Law at Pepperdine University School of Law. J.D., Columbia University School of Law; Ph.D., Economics University of California, Davis. FCC Regulation Versus Antitrust: How Net Neutrality is Defining the Boundaries, 52 B.C.L. Rev. 1627 (2011). <http://lawdigitalcommons.bc.edu/bclr/vol52/iss5/2>

There is a crucial battle playing out in the world of Internet access provision. While the Internet is the natural home of competing business giants and warring digital avatars, the contest that will have the most sweeping ramifications for the future of the Internet is the turf war being waged between the Federal Communications Commission (FCC), on the one hand, and the Federal Trade Commission (FTC) and the Department of Justice (DOJ), on the other.1 Nothing less than jurisdiction over the development of the Internet is at stake.

Jurisdiction over Internet access provision is not the first confrontation between these particular government agencies; in fact, they have clashed many times.2 But it is the current iteration of the FCC’s “net neutrality” regulations that has generated the latest contest. Roughly defined, net neutrality encompasses principles of commercial Internet access that include equal treatment and delivery of all Internet applications and content.3 For some, net neutrality stands further for the proposition that Internet access operators should not be permitted to provide different qualities of service for certain application providers (e.g., guaranteed speeds of transmission), even if those application providers can freely choose their desired quality of service.4 Net neutrality has reinvigorated what may be described as an underlying interagency tug of war that reaches deep within, and far beyond, the communications industry.

Although the two regimes share a commonality of purpose—to protect consumers and to promote allocative efficiencies in production—the two have quite distinct, predominately opposing, means of securing social benefits. As Justice Stephen Breyer stated when serving as a judge on the U.S. Court of Appeals for the First Circuit, although regulation and the antitrust laws “typically aim at similar goals—i.e., low and economically efficient prices, innovation, and efficient production methods” —regulation looks to achieve these goals directly “through rules and regulations; [but] antitrust seeks to achieve them indirectly by promoting and preserving a process that tends to bring them about.”5 The battle between these two regimes may be broadly summarized in a single issue thusly: in the face of the industry-specific regulator, what is (or what should be) the role of antitrust law?6

Antitrust law preserves the process of competition across all industries by condemning anticompetitive conduct when it occurs. In contrast, industrial regulation by its nature is a public declaration that, in a given industry, market forces are too weak or underdeveloped to produce the consumer benefits that are realized in competitive markets— regulated industries are carved out from the rest of the economy and are subject to proactive, regulatory intervention that goes above and beyond antitrust enforcement measures.7 Not surprisingly, regulatory agencies were historically created as substitutes for market forces in the few markets that, by the nature of the product or technology, were natural monopolies or severely prone to monopoly.8 In the vast major- ity of markets, however, the antitrust law is the default government control, designed to supplement market forces to inhibit or prevent the growth of monopoly.

Again, although the goals of the two regimes may be similar, the means by which each can achieve those goals are in opposition. Therefore, the threshold determination of which industries are to be singled out for industry-specific regulation, and to what degree, is of vital importance as it simultaneously determines the predominance of the regulator versus the antitrust authority in securing the social good.

This Article sets forth a framework to identify the boundaries between FCC regulatory power and antitrust authority. The goal is to pinpoint for Congress the problematic use of regulatory discretion in defining, or redefining, those boundaries and to propose the standard by which Congress may address inappropriate use of existing FCC jurisdiction. Specifically, this Article creates a new categorization of “procedural opportunism” and “substantive opportunism” to identify problematic, regulatory assertions of jurisdiction. The central issue examined in this Article is to posit what is (or should be) the boundaries of antitrust law in relation to the FCC’s regulatory authority. This important issue has reached a point of public crises in the current net neutrality debate.9 Rather than act reflexively, this is an opportunity for Congress to act clearly to redefine the boundaries between the two regimes that have otherwise been blurred by regulatory overreach.

#### 3. Legal code---antitrust requires Title 15 of US Code.

Sanjukta M. Paul 16. David J. Epstein Fellow, UCLA School of Law. The Enduring Ambiguities of Antitrust Liability for Worker Collective Action. Loyola University Chicago Law Journal. https://www.congress.gov/116/meeting/house/110152/witnesses/HHRG-116-JU05-Wstate-PaulS-20191029-SD002.pdf

Unlike the Clayton Act, which was the first legislative attempt at a labor exemption from antitrust,202 the Norris-La Guardia Act did not grapple directly with trade regulation in subject matter—even with how trade regulation applies to labor—although it had the effect of modifying its reach. Norris-La Guardia is not an antitrust statute. Instead, it is incorporated into Title 29 (“Labor”) of the United States Code. By contrast, the Clayton Act was conceived and written as an antitrust statute, was incorporated into Title 15, the antitrust and trade regulation section of the Code, and portions of it dealt with matters other than labor.

#### 2.OR it Links to the AFF---*expanding the scope of antitrust causes regulatory capture.*

Thibault Schrepel 20, Assistant Professor at Utrecht University School of Law, Associate Researcher at University of Paris 1 Pantheon-Sorbonne and Invited Professor at Sciences Po Paris. ARTICLE: Antitrust Without Romance, 13 NYU J.L. & Liberty 326

Private and Pseudo-State Interests. Antitrust authorities can be captured by various outside groups that lead antitrust employees to please them so as to maximize their own future interest. 59 Public choice theorists have pointed out that special interest groups may capture regulatory authorities. 60 This issue cannot be overlooked and [\*344] a precise risk map should be drawn in this area as antitrust authorities' employees may please these groups for personal benefit, to the detriment of consumers. 61 The importance of this issue is growing as the scope of antitrust authorities is expanding, which increases the risk of regulatory capture by interest groups. 62

See, e.g., Bundeskartellamt prohibits Facebook from combining user data from different sources (Bundeskartellamt, Feb. 7, 2019), archived at https://perma.cc/B9S2-9659. For more on this extension of antitrust authorities' power, see Directive (EU) 2019/1/EU of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market, 2019 O.J. L11 3 (Jan. 14, 2019). For risks this creates in terms of regulatory capture, see Michael E. DeBow, Social Costs of Populist Antitrust: A Public Choice Perspective, 14 Harv. J. L. & Pub. Pol. 205, 220 (1991) (explaining that as the government expands the scope and aims of antitrust enforcement, private parties invest more significant sums in manipulating this greater government intervention in the economy).

## Trade DA

### AT: Thumper --- Biden XO

#### The XO is vague nonsense that’s years from implementation.

Jeff Jaeckel 21. Co-Chai,r Global Antitrust Law Practice Group at Morrison & Foerster, with Alexander Paul Okuliar, Lisa M. Phelan, and Megan E. Gerking, Partner at Morrison & Foerster, 7/14/21. “Charting a New Course for Antitrust: President Biden’s Executive Order Promoting Competition in the American Economy.” https://www.mofo.com/resources/insights/210714-president-biden-executive-order-antitrust.html

Despite its breadth, the immediate effect of the EO on law or regulation is less clear. The EO itself does not enact any new law or regulation. Rather, the EO often uses vague language in instructing or guiding the actions of agencies. This is likely purposeful in many instances, including when the EO refers to independent agencies, like the FTC, Federal Communications Commission, Maritime Commission, Consumer Financial Protection Bureau, and the Surface Transportation Board. Nonetheless, for almost every initiative, there is likely to be a significant gap between the action directed or encouraged by the EO and the time it will take for the relevant agency to investigate, evaluate, and potentially implement a new rule or policy. Even where the direction to an agency is explicit, issuing a new rule or regulation takes time. An agency must first draft a rule, allow for a notice-and-comment period, make any necessary revisions, and then issue and start to enforce a final rule. And this does not account for likely legal challenges. In some instances, the EO directs the agencies to submit a report on the issue first rather than make any immediate changes, pushing any resulting regulatory activity out at least until the period following completion of the report.

#### It's non-binding AND will be blocked by the court and Congress

Todd Seelman et al. 21. Managing Partner @ Lewis Brisbois Bisgaard & Smith LLP, 7/12/21. “President Biden Signs Executive Order on Promoting Competition in the American Economy.” https://lewisbrisbois.com/newsroom/legal-alerts/president-biden-signs-executive-order-on-promoting-competition-in-the-american-economy

On July 9, 2021, President Biden signed an “Executive Order on Promoting Competition in the American Economy.” According to a Fact Sheet released in advance of the signing, the Executive Order takes “decisive action to reduce the trend of corporate consolidation, increase competition, and deliver concrete benefits to America’s consumers, workers, farmers, and small businesses.”

Among other things, the Executive Order encourages the Federal Trade Commission (FTC) and the Antitrust Division of the Department of Justice (DOJ) to focus enforcement efforts on problems in key markets and coordinate other federal agencies’ responses to corporate consolidation. Further, the Executive Order calls on the FTC and DOJ to “enforce the antitrust laws vigorously.” The Executive Order would also make it easier for high tech workers to change jobs by banning or limiting non-compete agreements, lower prescription drug prices by supporting programs to import cheaper prescription drugs from Canada, make it less expensive to repair products by limiting manufacturers from barring self-repairs or third-party repairs of their products, and increase opportunities for small businesses by directing all federal agencies to promote greater competition through procurement and spending decisions. In all, the Executive Order outlines 72 initiatives that attempt to rein in corporate powerhouses that control markets.

In the Fact Sheet, the Biden Administration compared its Executive Order to the responses of previous Administrations to “growing corporate power,” expressly citing the trust-busting efforts of the Theodore Roosevelt and FDR Administrations’ “supercharged antitrust enforcement” agendas.

Although Democratic lawmakers and union leaders have cheered the Executive Order, some business advocacy groups have reportedly warned that such measures as those in the Executive Order could slow the economy.

Executive Orders are expressions of policy intent that have no actual binding legal force. Their ability to change the law lies in follow-up implementation by federal agencies that act to implement presidential initiatives. Those changes are limited by the extent of underlying statutory authority, and the courts in recent years have appeared reluctant to expand the scope of what is considered anticompetitive activity under the antitrust laws. Business interests should keep a close eye on the regulatory proposals that result from this Executive Order and consider engaging on those that affect their business operations.

#### Even if, it’s moderate and restrained.

Andrew Coopersmith 21**.** Managing Director of the Penn Program on Regulation, “The Biden Executive Order on Restructuring Competition”, The Regulatory Review, 7/26/2021, https://www.theregreview.org/2021/07/26/coopersmith-biden-executive-order-restructuring-competition/

Hovenkamp, while still supporting the consumer welfare basis for antitrust decision-making, sees some potential for applying antitrust law in new ways, especially in the regulation of Big Tech. “There are certain types of mergers that we’re not going after because our current merger guidelines don’t cover them, particularly mergers that are intended to eliminate competitors”—for example, Facebook buying Instagram—“or that entail other anticompetitive practices that are not collusive,” he explained.

Hovenkamp stated that he thinks that the U.S. already has effective tools such as the Sherman Act that can allow regulators to use “focused injunctions to stop the conduct without doing unnecessary harm … to the efficiencies and the network effects that have made the tech market so valuable.”

Part of what impressed Hovenkamp about Biden’s executive order is how moderate and un-political it seems. “While this was widely touted as a progressive document,” Hovenkamp noted, “the fact is that it preserves the centrality of economic concerns in antitrust. It never speaks of political power as an antitrust concern.” And it never uses the word “breakup” in reference to Big Tech.

### 2NC Link Wall

#### Unilateral antitrust will be manipulated AND perceived as protectionist---that shatters co-op and is the nail in trade’s coffin.

Allison Murray 19. JD from the Loyola Law School, Los Angeles Law School, BS in Business Administration from the University of Redlands, Judicial Law Clerk at the U.S. Bankruptcy Courts, Winter. “Given Today's New Wave of Protectionism, is Antitrust Law the Last Hope for Preserving a Free Global Economy or Another Nail in Free Trade's Coffin?” Loyola of Los Angeles International and Comparative Law Review, Volume 42, Number 1, 42 Loy. L.A. Int'l & Comp. L. Rev. 117, Lexis.

VI. CONCLUSION

There is a clear "conflict between the evolving economic and technical interdependence of the globe and the continuing compartmentalization of the world political system composed of sovereign states . . . ." 196 This conflict can breed protectionist political views. Unless and until there is a complete paradigm shift away from protectionism, which is impossible, the global economy will not meet the "rational" assumptions necessary to preserve free market efficiency.

Some amount of protectionism is inevitable. Although "inefficient" in economic and academic circles, protectionism preserves the sovereign powers enjoyed by certain countries. In this way, it is a necessity of free [\*146] trade. This paper is not intended to be a commentary on whether protectionism is right or wrong, but rather a demonstration and prediction that antitrust law, a tool of political and economic power, can and will be wielded by individual countries to promote protectionist policies that will affect the international trade landscape in the near term.

While attempting to act on this protectionism is difficult because of the web of international trade agreements currently in existence, individual countries may still use domestic antitrust law to meet protectionist aims, especially given that an international authoritative body governing the use of antitrust does not exist. Countries serious about preserving free trade may cooperate with one another to adopt realistic economic policies that serve to dull the blade of antitrust law through regional agreements, but ought not to attempt to eliminate it altogether.

Antitrust law, like medicine, must be used appropriately to be effective. While antitrust laws generally should encourage free trade, as promoting competition is the aim of their enforcement, they are also at risk of being used to thwart free trade. That risk is further exacerbated by perceptions of unfair enforcement and the divisive rhetoric of world leaders. In this way, antitrust law has the potential to weaken the already delicate international cooperative framework that exists to foster free trade. Absent a change in perceptions and the protectionist rhetoric fueling the current political landscape, antitrust law is likely to be manipulated to serve protectionist viewpoints, making it increasingly likely to become a nail in free trade's coffin, instead of the key to its preservation. It may be a nail that nations are able to ignore for the sake of its benefit, or it may be the one that finally puts an end to the pursuit of truly international free trade. Only time will tell, but one thing is clear: anti-trust law is a field that will impact the international economic community significantly for years to come.

It’s uniquely likely now---fears of protectionism are high because of COVID, Brexit, and China disputes

Dr. Brian Ikejiaku 21. Senior Lecturer in Law at Coventry University, PhD from the Research Institute of Law, Politics, & Justice (RILPJ) at Keele University, with Cornelia Dayao, LL.M in International Business Law, “Competition Law as an Instrument of Protectionist Policy: Comparative Analysis of the EU and the US.” Utrecht Journal of International and European Law, Volume 36, Issue 1, Gale Academic Complete.

Today, there is a growing fear of resurfacing protectionism, from United States’ trade-war with China, to UK’s Brexit, to the less known trade-restricting measures adopted by countries globally. The General Agreement on Trade & Tariff (GATT), superseded by the World Trade Organisation (WTO) since 1995, rendered the classic forms of protectionism such as tariffs obsolete. However, it did not defeat protectionism; instead, protectionism has evolved through its protean capacity to adapt into new and often undetectable forms, now labelled as ‘murky’ protectionism (e.g. competition law enforcement and the recent bailout packages). It is argued that there are two ways in which States can utilise competition law to impair free-trade and restrict foreign firms’ access to domestic markets: the exemption of certain anticompetitive conduct under national competition law and the strategic application of domestic competition law. This article considers competition law as an instrument of protectionist policy with comparative analysis of the US and the European Union. Using an international political economy (IPE) perspective underpinned by overlapping theories of (legal/political) realism, this article establishes that, while no direct robust empirical evidence of protectionist motivations on competition law enforcement exists, particularly on ‘merger regulation and export cartel exemptions’, the presence of political elements on the decision-making, the wide discretion granted to competition authorities and the ‘sponge’ nature of competition law present an opportunity for the use of competition law for protectionist tendencies.

#### Business will lobby and receive protection to balance out increased antitrust enforcement.

Ismael Beltrán Prado 20. J.D. from the Javeriana University, LL.M from Columbia University, Master’s in Applied Economics Candidate at the Andes University, Commercial and Antitrust Lawyer and Coordinator of the Public Procurement Collusion Task Force, at the Colombian Competition Authority, 4/26/20. “Competition Policy After COVID-19.” https://www.competitionpolicyinternational.com/competition-policy-after-covid-19/

The Day After COVID-19

Some countries are beginning to ease their lockdowns. The fear of a deeper recession put pressure on governments to reduce shutdowns in order to revive the economy. Unemployment is particularly worrisome in many countries, even in the United States, where unemployment claims have reached 22 million.4 Latin American countries with already relatively high unemployment rates – on average 8.1 percent in 20195 – are particularly vulnerable in this respect.

Such a disturbing outlook brings me to some competition concerns for three reasons.

Firstly, competition authorities have begun to relax the enforcement of some competition rules. For example, on March 19, the UK Competition and Markets Authority (“CMA”) stated that it had no intention of taking competition enforcement action against cooperation between businesses to the extent necessary to protect consumers or ensure supplies.6 The Mexican Competition Authority (“COFECE”) recently took a similar approach.7 Nevertheless, the urgency of acting now might pave the way for setting aside future competition policies necessary for healthy markets. Therefore, in my view, it should be clear that the current approach of dealing with the emergency must be temporary.

Secondly, after the spread of COVID-19 slows, governments will prioritize the recovery of local markets even if that implies embracing extreme protectionism, which in turn will reduce foreign competition. This is important because this trend would be a force in the same direction as relaxing the enforcement of some competition rules. Competition authorities must bear this in mind for post-COVID-19 times.

Thirdly, and closely related to the two previous concerns, domestic corporations will have strong incentives to lobby for softer enforcement of competition law and might request additional protectionist measures as compensation for corporate generosity and flexibility during the pandemic. If some protectionist measures are arguably acceptable for some time, they should not be at the expense of strict enforcement of competition law in domestic markets.

In such a context, my concern is that competition policy might become excessively lenient. This would be a questionable policy choice. If protectionism was winning supporters before the pandemic, a post-COVID-19 world will tolerate more protectionism in order to back domestic industries and businesses.

#### Court packing ensures the link---blame Trump

Danielle Root 19. Director of voting rights and access to justice on the Democracy and Government Reform team at the Center for American Progress, with Sam Berger, 5/8/19. “Structural Reforms to the Federal Judiciary.” https://www.americanprogress.org/issues/courts/reports/2019/05/08/469504/structural-reforms-federal-judiciary/

Discussions of the federal judiciary often focus on the substance of decisions made—which side wins and which side loses—and rightly so. These individual opinions are frequently of incredible importance, not just to the parties involved but in shaping the law more broadly. Yet this focus on substantive decisions has obscured deeper structural factors at play in the nation’s federal judiciary. Structural problems—such as lack of judicial diversity, ideologue judges, and lack of judicial accountability—undercut the courts’ legitimacy and have tangible negative effects on judicial decision-making. Instead of protecting everyday Americans by serving as a check on abuses of power, too often the federal courts have become a tool for carrying out the agendas of special interests and corporations.

Structural problems with the judiciary have always existed to varying degrees. But they have been exacerbated in recent years due to an ongoing campaign by conservatives to take control of the federal courts, often through procedural changes that have significant effects but garner little public attention. The problem has now reached a crisis point. Conservatives have shown a willingness to abandon any and all norms to undermine the judicial nominations process and pack the courts with judges who will help them realize political goals they cannot achieve through the political process. These judges have proven more than willing to carry out the task, supporting the most specious of legal claims in order to skew the system in favor of conservative interests and even prevent many Americans from accessing the courts at all.

#### Foreign discrimination against U.S. firms causes American retaliation.

Michael Ristaniemi 18. PhD Candidate in Commercial Law at the University of Turku, Vice President for Sustainability at the Metsä Group, September. “Convergence, Divergence or Disturbance – How Major Economic Powers Approach International Antitrust.” Concurrences, Number 3. https://papers.ssrn.com/sol3/papers.cfm?abstract\_id=3266018

2. Means to reach goals

16. The US aims at securing its companies’ interests abroad in a number of ways. At its most aggressive, it has several times applied its antitrust laws extraterritorially when its markets have been impacted by foreign conduct—acts which risk sparking trade friction.21 A more amiable way of ensuring favourable conditions abroad is contractually agreeing with foreign governments and enforcers to, respectively, enact or maintain certain standards with relation to antitrust in their domestic legislation and enforcement thereof as well as cooperate in investigations and otherwise share relevant information, whether as a part of broader trade agreements or in agreements dedicated to antitrust enforcement cooperation.

### AT: COVID Disproves/Thumps Trade Impact

#### Consumer demand kept trade alive despite COVID

Julia Horowitz 21. Senior Writer, CNN Business, 8/25/21. “Global trade is in disarray. It's still booming.” https://www.cnn.com/2021/08/25/investing/premarket-stocks-trading/index.html

The reopening of the world's third busiest container port in China is great news for global trade.

What's happening: The Meishan terminal at the Ningbo-Zhoushan Port in eastern China resumed operations Wednesday, ending a two-week long suspension after a dock worker tested positive for Covid-19. The closure was stressing tangled supply chains, as companies face sky-high costs and delivery delays 18 months into the pandemic.

Want more good news? For all the supply chain problems making it harder to get your hands on a sofa or a laptop — including a dearth of shipping containers, coronavirus complications and shortages of key items like computer chips — recent data shows that global trade is still booming, providing crucial fuel for the economic recovery.

In the second quarter of 2021, the value of international merchandise trade for Group of 20 countries reached a new record, the Organization for Economic Cooperation and Development said this week.

A fresh report from the CPB Netherlands Bureau for Economic Policy Analysis on behalf of the European Commission shows world merchandise trade is stabilizing at very high levels after a "vigorous" recovery.

Merchandise trade is about 5% higher than it was before the pandemic, the group said Wednesday.

A fair question: How can global trade be surging with supply chains under so much duress?

The strength of consumers, which are on shopping sprees after months of saving, is part of the story.

The Port of Long Beach said earlier this month that it handled a record number of containers in July, driven by "resilient consumer demand." The Port of Los Angeles processed 4% more containers in July compared to 2020.

"This remarkable, sustained import surge is pushing the supply chain to new levels," Port of Los Angeles Executive Director Gene Seroka said.

Higher demand for commodities, particularly from China, Japan and South Korea, is playing a role, too, the OECD said. Australia's exports rose 10% last quarter due to sales of metals, coal and cereals, while Brazilian exports jumped 29% because of demand for iron ore and soybeans.

But the OECD also said that "rising commodity prices explain a large part of the increase." That logic tracks: If firms are paying more for corn, that means the value of shipments goes up.

#### COVID’s impact on trade was overestimated.

Jasper Verschuur et al. 21. PhD student in Geography and the Environment at the Environment Change Institute of Oxford University, with Elco E. Koks & Jim W. Hall, “Observed impacts of the COVID-19 pandemic on global trade.” Nature Human Behaviour volume 5, pages 305–307. https://www.nature.com/articles/s41562-021-01060-5

The modelling undertaken by Guan et al.1 provided an early indication of the scale and distribution of potential economic impacts of COVID-19 under different policy scenarios. However, using observational data of global trade from AIS ship tracking, we find both similarities and differences between the modelled dynamics and reality. Overall, the empirical evidence suggests that the modelling overestimated the negative economic impact of the pandemic. Complementary higher-frequency data sources of economic indicators, as presented here, should help to calibrate model parameters and refine and validate the modelled dynamics in cases where economic disaster models are used to evaluate scenarios of global supply-chain disruptions. Combining these methods, as is commonly used in nowcasting exercises, could provide policymakers with more decision-relevant information on the prioritization of post-COVID-19 recovery needs for the hardest-hit economies.

#### Wasn’t that big a deal.

Christine Arriola et al. 21. Analyst and economic modeller in the Trade and Agriculture Directorate of the Organisation for Economic Co-operation and Development, with Przemyslaw Kowalski and Frank van Tongeren. “The Impact of COVID-19 on Directions and Structure of International Trade.” https://www.oecd-ilibrary.org/docserver/0b8eaafe-en.pdf?expires=1634225613&id=id&accname=guest&checksum=7977D65B06955E918DFCB9A7FB566F12

That said, international trade was also instrumental in addressing the pandemic-related supply shortages (e.g. in the case of pharmaceuticals, personal protective equipment, surgical masks and electronic products). Overall, world trade volumes, especially for goods, ultimately fell by much less in 2020 than initially expected1 and, indeed, some industries and products actually recorded gains.

### AT: Trade Impact Defense

#### Trade impact is real ---

#### 1) Recent, robust studies

Julian Adorney 20. Contributing Writer at the Hinrich Foundation, Young Voices Advocate, Senior SEO Analyst for Colorado SEO Pros, 9/10/20. “Want Peace? Promote Free Trade.” https://www.hinrichfoundation.com/research/tradevistas/sustainable/trade-and-peace/

Why does protectionism lead to conflict and why does free trade help prevent it? Learn about the connection between peace and free trade.

Frédéric Bastiat famously claimed that “if goods don’t cross borders, soldiers will.”

Bastiat argued that free trade between countries could reduce international conflict because trade forges connections between nations and gives each country an incentive to avoid war with its trading partners. If every nation were an economic island, the lack of positive interaction created by trade could leave more room for conflict. Two hundred years after Bastiat, libertarians take this idea as gospel. Unfortunately, not everyone does. But as recent research shows, the historical evidence confirms Bastiat’s famous claim.

To trade or to raid

In “Peace through Trade or Free Trade?” professor Patrick J. McDonald, from the University of Texas at Austin, empirically tested whether greater levels of protectionism in a country (tariffs, quotas, etc.) would increase the probability of international conflict in that nation. He used a tool called dyads to analyze every country’s international relations from 1960 until 2000. A dyad is the interaction between one country and another country: German and French relations would be one dyad, German and Russian relations would be a second, French and Australian relations would be a third. He further broke this down into dyad-years; the relations between Germany and France in 1965 would be one dyad-year, the relations between France and Australia in 1973 would be a second, and so on.

Using these dyad-years, McDonald analyzed the behavior of every country in the world for the past 40 years. His analysis showed a negative correlation between free trade and conflict: The more freely a country trades, the fewer wars it engages in. Countries that engage in free trade are less likely to invade and less likely to be invaded.

Trading partners

The causal arrow

Of course, this finding might be a matter of confusing correlation for causation. Maybe countries engaging in free trade fight less often for some other reason, like the fact that they tend also to be more democratic. Democratic countries make war less often than empires do. But McDonald controls for these variables. Controlling for a state’s political structure is important, because democracies and republics tend to fight less than authoritarian regimes.

McDonald also controlled for a country’s economic growth, because countries in a recession are more likely to go to war than those in a boom, often in order to distract their people from their economic woes. McDonald even controlled for factors like geographic proximity: It’s easier for Germany and France to fight each other than it is for the United States and China, because troops in the former group only have to cross a shared border.

The takeaway from McDonald’s analysis is that protectionism can actually lead to conflict. McDonald found that a country in the bottom 10 percent for protectionism (meaning it is less protectionist than 90 percent of other countries) is 70 percent less likely to engage in a new conflict (either as invader or as target) than one in the top 10 percent for protectionism.



2) Empirics

Cary Huang 18. Senior Writer and Veteran Columnist at the South China Morning Post, Former China Editor for The Standard, 7/17/18. “Trade Wars Cause World Wars, History Shows. Will This Time Be Different?” https://www.scmp.com/comment/insight-opinion/united-states/article/2155565/trade-wars-cause-world-wars-history-shows-will

History provides ample evidence that trade problems have heightened tensions among nations. Such fights lead to economic crises, and trigger political and social crises and, finally, trigger wars.

A full-blown trade war often features the combination of a tariff war and currency war. In practice, exporting countries will, in response to imposed tariffs, resort to currency manipulation, moving to cheapen their money to offset the impact of the tariffs.

But a competitive devaluation among trade partners makes a currency war meaningless. Once countries realise that currency wars do not work, they resort to all the tools available to set up barriers to block trade. This seems evident amid the escalating US-China trade feud. The slump in the renminbi in past few months is stoking fears in markets that China’s policymakers are deliberately pushing the currency’s depreciation in an effort to offset the US tariff hikes.

Trump staring down barrel of yuan devaluation in trade war

Before the first world war, most countries accepted the classical gold standard of pegging their currencies to gold as an effort to anchor smooth trade. However, from 1913, countries began to suspend or abandon the system as they devalued their currencies to compete for export markets in the ongoing tariff war.

The end of the first world war sparked the first worldwide currency war, starting in Weimar Germany in 1921, followed by France in 1925. In the end, all the major economies scrambled to devalue their currencies – sterling, the franc and the US dollar – throughout the 1930s.

In 1930, US president Herbert Hoover signed into law the Smoot-Hawley Tariff Act, which intensified the currency war and deepened the Great Depression. The protectionist law raised tariffs on more than 20,000 imported products and triggered retaliation from many US trade partners.

Trade wars stoke nationalism and hatred among people and finally trigger wars, as evidenced by the breakout of the second world war: the Japanese invaded Manchuria in 1931, and the whole of China in 1937; the Germans invaded Poland in 1939, then the rest of Europe; and the Japanese attacked Pearl Harbour in 1941.

Could Trump’s trade war turn into a third world war?

A quote often attributed to the 19th-century French economist, Frédéric Bastiat, goes: “When goods do not cross frontiers, armies will.” It is obvious that the current US-China trade war is stoking geopolitical tensions between the world’s two largest economies and chief political adversaries, as they become more confrontational over their discord on maritime issues in the South and East China seas and over Taiwan.

History often repeats itself if we do not learn from it. The two full-blown trade wars some 80 and 100 years ago helped to ignite the two world wars. Could such a catastrophe happen again?

#### 3) Now’s key---the current environment is uniquely primed for global escalation---trade is essential to avert that.

Dr. Christopher M. Dent 20. Professor in Economics and International Business at Edge Hill University, PhD in International Political Economy, University of Hull, MA in Economics from the University of Leeds. “Brexit, Trump and Trade: Back to a Late 19th Century Future?” Competition & Change, Volume 24, Issue 3-4, p. 338-339.

Introduction

The global economy and system are entering a critical phase. Populist nationalism is on the rise, fuelled largely by discontent over globalization’s distributional impacts and failure of conventional politics and markets to deliver on their promises (Kyle and Gultchin, 2018). An emerging economic superpower is disrupting the global order and its long incumbent power structures. Multilateralism is under threat, trade protectionism and tariff wars are escalating, many economies are struggling in the lingering aftermath of a severe global recession and the global system is under pressure generally from short- and longer-term crises (Guillen, 2015). World GDP and trade growth are slowing and there are predictions of greater political economic turbulence to come (World Bank, 2019; World Trade Organisation, 2019a). Worst still, the world may be on the brink of a major great power conflict. This scenario not only applies today but also to the late 19th century world. The eventual outcome of events in this period was escalating conflict that culminated in the outbreak of World War 1 (WW1). Whilst such an outcome was not necessarily inevitable by the 1890s it was a retrospectively proven possibility. Hence, avoiding a late 19th century world scenario is, at the very least, desirable.

Trade is central to understanding the political economies of the early 21st and late 19th centuries, making it a suitable empirical prism to make a comparative historical analysis (CHA) of the two periods. What follows is a trade political economy study that will examine various connections between the domestic and the international, focusing also on two significant cases that provide important comparative analytical insights. The result of Britain’s 2016 Brexit referendum and election of Donald Trump as US President in the same year have become emblematic of contemporary populism, economic nationalism and associated resistance against forms of internationalism and globalization.1

## Advantage 1

### Alt Causes

#### Only 7.8% of co-ops mentioned ag business competition as a factor impacting co-op performance

Thomas W. **Gray**, PhD **and** Charles A. **Kraenzle**, PhD, **02**. Researchers at the U.S. Department of Agriculture’s Rural Business-Cooperative Service. “Problems and Issues Facing Farmer Cooperatives.” U.S. Department of Agriculture Rural Development Rural Business-Cooperative Service Research Report 192. September 2002. <https://www.rd.usda.gov/files/RR192.pdf>

Among the four, low commodity prices, with nearly 20 percent of the responses, was the most often cited. This included low prices for cotton, cottonseed, sweet potatoes, almonds, apples, pears, fresh fruit, milk, sugar, grains, and eggs. The agricultural economy was the second most often cited problem (13.3 percent). Management was concerned about the “depressed farm economy,” “loss of acreage and farmers,” “the number of dairy farmers quitting business and leaving the farm,” “producer profitability,” “size of farms getting bigger, farmers bypassing local co-op for supplies and sales,” “shrinking agricultural market,” and “too many big farmers.” As a result of the changing structure of agriculture, many cooperatives found their sales and profitability declining. Cooperative operational problems were the third most frequently cited (nearly 11 percent). Among them were “working capital,” “financing,” “debt management,” “equity management,“ “increasing sales,” “marketing,” “acquisition of another company and adding its operations to ours,” “working through merger,” “loss of feed customers,” “reducing our expenses by closing smaller branches to meet larger farmer needs more competitively,” “understanding and responding to our strengths and weaknesses,” and “identifying and persuading directors to pursue non traditional income opportunities.” The fourth most often cited problem was increasing costs (9 percent). Nearly one-third mentioned the rising costs of fuel. Others cited increased cost of doing business due to rising labor costs, insurance, supplies and other expenses. Examples of responses included “rising costs, particularly energy,” “high fuel prices causing cash flow problems,” “rising labor costs!” “rising overhead—insurance, health insurance, utilities, etc,” “increasing costs of operations; labor, repairs, depreciation,” and “construction costs.” Four additional problem areas—labor, low margins, competition, and weather—were cited but with decreasing frequencies. Labor (8.2 percent) was the fifth most frequently mentioned problem, and in particular “finding and keeping quality employees.” Other labor concerns were “qualified employees that stay and do not expect everything,” “lack of seasonal 4 Table 1—Problems cooperative management faced the past year, 2000-01 Problem or issue Cooperatives Responses1 Number Number Percent Low commodity prices 225 281 18.8 Agricultural economy 157 199 13.3 Operational 141 165 11.0 Increasing costs 76 135 9.0 Labor 95 124 8.3 Low margins 97 118 7.9 Competition 81 116 7.8 Weather 78 98 6.6 Accounts receivable 32 48 3.2 Government regulations 32 47 3.1 Other 32 35 2.3 Government programs 21 30 2.0 Members 22 28 1.9 Genetically modified crops 17 20 1.3 Technology 12 19 1.3 Transportation 16 17 1.1 Consolidation 13 16 1.1 ——— ——— ——— Total 2 1,147 1,496 100.0 1 A number of cooperatives reported more than one problem. The second and third problems listed were included in the total responses. The cooperatives were not asked to give any priority or ranking to the problems reported. 2 May not add due to rounding. employees and rising labor cost,” “employment issues,” “finding qualified employees in rural areas to handle the technical needs of our patrons,” and “effectively managing people to maintain profits.” Low margins was the sixth most frequently mentioned problem (7.9 percent). Many called the problem one of “shrinking” or “declining margins,” “profitability,” “energy price fluctuations and the negative impact on margins,” and “getting through another year with minimum losses financially.” A number of cooperatives (7.8 percent of the responses) mentioned competition. This included competition from other cooperatives, from large conglomerates, and from other countries. Responses included “intense competition,” “ foreign importation of cottonseed,” “competition from Eastern Canada at very low delivered prices,” “over-supply of imports,” “lower price of import and russet potatoes which resulted in below cost of production return to our growers,” “ability to compete with the conglomerates. Cargill has saturated our area,” “farmers buying and selling direct,” “no large number of wool buyers,” “direct selling of agricultural products to farmers,” and “contracting.” Weather (6.6 percent of responses) was the eighth most frequently cited problem. Some cooperatives were faced with drought while others encountered excess moisture. As a result, crop production and/or quality were down. Weather responses cited “drought and hail—less cotton to gin,” ”farmers plant good quality seed but rain did not come,” “dry years put farmers and gin in hard times,” “poor-quality grain due to wet weather conditions,” “wet fall, poor crop, hard-to-collect accounts,” “slow sales of heating fuel due to warm winter” and “warm/dry winter (resulting in) dry corn at harvest time,” and “reduced LP gas sales and grain drying income.”

## Adv 2 --- Populism

### Populism Inev

#### More alt causes:

#### 1. Cultural shifts, immigration, and economics.

Yotam Margalit 19, 12-20-2019, Professor, Department of Political Science, Tel Aviv University, "Economic causes of populism: Important, marginally important, or important on the margin," Vox CEPR Policy Portal, https://voxeu.org/article/economic-causes-populism/

What, then, explains the populist appeal? Out of space limit, I will note only that structural, long-term social changes strike me as central to understanding the resentment underlying much of its appeal. By this account, structural changes – such as increased access to higher education, urbanisation, and growing ethnic diversity – have led to significant progressive cultural shifts. These changes, and the perceived displacement of traditional social values, have caused a sense of resentment among segments of the population in the West, particularly among white men, older people, conservatives, and those with less formal qualifications (see Inglehart and Norris 2019 for an extensive exposition of this view). Increased exposure to foreign influences that comes with globalisation and, even more so, the effects of waves of immigration have exacerbated the sense of a cultural and demographic threat. With gradual generational change, these formerly predominant majorities have increasingly felt their social standing erode, buying into the populist nostalgia for a ‘golden age’ when there was cultural homogeneity and traditional values and a strong national identity prevailed. They have also grown receptive to populist charges against a disconnected elite that has turned its back on them and the values they hold dear.

There’s an obvious, and understandable, reluctance to accept such ‘soft’ explanations. Cultural explanations of populism can be harder to measure or identify causally. Yet that of course doesn’t mean that a cultural explanation is incorrect. One should be careful not to equate quantifiability with importance.

Note, though, that the cultural account does not dismiss the role of economic factors. In addition to the electoral impact of the causes noted earlier (e.g. trade, automation), hard economic times also tend to undermine the perceived competence of the economic and political elites, and thus help fuel popular distrust in them. It is therefore likely that the financial crisis contributed to the populist wave, as some have suggested (Algan et al. 2017, Mian et al. 2014). But given the weak empirical association between measures of economic insecurity and support for populism, we should view the crisis as more of a trigger than a root cause of widespread populist support.

## Adv 3 --- Modeling

# 1NR v Minnesota FP

## Forecasting CP

### Overview---2NC

#### The impact is linear which means any DA to the perm outweighs---even small forecasting differences prevent war.

J. Peter Scoblic and Philip E. Tetlock 16. Scoblic, Fellow in the international security program at New America. "We didn’t see Donald Trump coming. But we could have.". Washington Post. 2-12-2016. https://www.washingtonpost.com/opinions/we-didnt-see-donald-trump-coming-but-we-could-have/2016/02/12/46ece26a-d0db-11e5-abc9-ea152f0b9561\_story.html

The answer lies in measuring a forecaster’s performance over many predictions. Do the things you say will happen 5 percent of the time actually happen about that often? Do you assign high probabilities to events that happen and low probabilities to those that don’t, as opposed to playing it safe with middle-of-the-road predictions? By answering these questions, we can find out whose forecasts are generally the most accurate — even if we can’t say they were “right” — and use the results to refine our beliefs and plan for the future.

Individuals, businesses and policymakers often face choices involving competing priorities and limited resources. Probabilistic predictions, especially from forecasters who have proved their accuracy over time, can enable better decisions, and even small improvements in predictive ability can mark the difference between danger and security, recession and growth, war and peace. Imagine that the intelligence community had been more circumspect in 2002, saying there was a 75 percent chance that Iraq had weapons of mass destruction (and a 25 percent chance it did not) instead of bluntly stating, “Baghdad has chemical and biological weapons.” Would Congress still have authorized the use of force? No one knows for sure, but lawmakers might have been more cautious. Decreasing the odds of multi-trillion-dollar mistakes is not something to sniff at.

What about supposed black swans, though? It’s true that judging the accuracy of forecasts involving extremely unlikely events is harder, because they could take decades or even millennia to play out. But there are still standards we can use to benchmark those odds, especially compared with other unlikely events. So even if we can’t assign an objective probability to an alien invasion, we can presumably say it’s less likely than, say, war with Russia and prepare accordingly.

A purely black swan is, by definition, a completely unforeseeable event, and there are relatively few of those. The 9/11 attacks are often cited as an example, but there were many data points suggesting that al-Qaeda wanted to attack the United States and that terrorists might use airplanes as weapons. (Tom Clancy had even published a book in which a pilot intentionally crashes a jetliner into the Capitol.) As the 9/11 Commission Report put it, the attacks “were a shock, but they should not have come as a surprise.”

Likewise, the intelligence community considered the possibility of the Soviets placing missiles in Cuba, of Islamists overthrowing the shah of Iran and of the Soviet Union collapsing under the weight of communism. That does not mean that its forecasts were accurate! But if these scenarios were imaginable, then they were predictable in a ballpark probabilistic sense. And the accuracy of those predictions could have been used to refine the intelligence community’s models of the world.

Prediction is not positivism: We need to be humble about what we know and what we don’t know — and always remember that a probability is just that. There are limits to our foresight, but better prediction can reduce the uncertainty that erodes confidence in the future. Trump is wrong: America doesn’t need to be made great again. But prediction just might make it better.

#### Outweighs and turns every impact---forecasting models are key to action on all existential risks.

Jeffrey A. Friedman et al. 18. Assistant Professor of Government at Dartmouth College. Joshua D. Baker is a Ph.D Candidate in Psychology & Marketing at the University of Pennsylvania. Barbara A. Millers is the I. George Heyman University Professor at the University of Pennsylvania. Philip E. Tetlock is the Leonore Annenberg University Professor at the University of Pennsylvania. Richard Zeckhauser is the Frank P. Ramsey Professor of Political Economy at Harvard University. “The Value of Precision in Probability Assessment: Evidence from a Large-Scale Geopolitical Forecasting Tournament”. International Studies Quarterly, Volume 62, Issue 2, June 2018, Pages 410–422, https://doi.org/10.1093/isq/sqx078

Conclusion

Uncertainty surrounds every major foreign policy debate. As of this writing, for example, the US public is sharply divided in assessing the extent to which restricting immigration from Muslim-majority countries could reduce (or potentially exacerbate) the risk of terrorism. One of the foremost controversies facing the United Nations Security Council concerns the extent to which economic sanctions can reduce the probability that North Korea will continue expanding its nuclear arsenal. Debates over policy responses to climate change revolve around different perceptions of the risks that climate change poses and of the extent to which regulations could feasibly reduce those risks. At the broadest level, it is logically impossible to support a high-stakes decision without believing that its probability of success is large enough to make expected benefits outweigh expected costs. For that reason, it makes little sense to ask whether foreign policy analysts should assess probability. The question is rather how they can assess probability in the most meaningful way possible.

We have seen throughout this article how many scholars and practitioners are deeply skeptical of probability assessment. It is easy to understand why this is the case. Many of the events that have shaped world politics over the past two decades—such as the September 11, 2001 terrorist attacks, mistaken judgments of Iraq's presumed weapons of mass destruction programs, the 2008 financial crisis, the Arab Spring, the rise of ISIS, Brexit, and the election of Donald Trump—were outcomes that most political analysts failed to see coming or cases in which experts confidently stated that the opposite would be true. Our ability to predict world politics is clearly less accurate than we would like it to be.

This article nevertheless shows that it is a mistake to believe that probabilistic reasoning is meaningless in world politics or to think there is no cost to leaving these judgments vague. By examining nearly one million geopolitical forecasts, we find that foreign policy analysts could consistently assess probability with numeric precision. We find that rounding off these forecasts into qualitative expressions—including qualitative expressions currently recommended for use by US intelligence analysts—systematically sacrifices predictive accuracy. We see no evidence that these returns to precision hinged on extreme forecasts, short time horizons, particular scoring rules, or question content. We also see little indication that the ability to parse probabilities belonged primarily to respondents who possess special educational backgrounds or strong quantitative skills.

These findings speak to both academic and practical concerns. Great scholars such as Popper, Keynes, and Mill have all expressed doubts about the value of assessing subjective probability. Aristotle himself argued that justifiable precision declines as questions become more complex. Yet, even if that is true, it does not tell us where the frontier of justifiable precision lies in foreign policy analysis or in any other discipline. That is ultimately an empirical question, and to our knowledge, this article represents the first attempt to address that question directly. The results of our analysis are relevant not only for intelligence analysts and military planners, but also for scholars, pundits, and any other participants in the broader marketplace of ideas. In short, our data indicate that it is possible to improve the quality of foreign policy discourse on a widespread and immediate basis, simply by raising standards of clarity and rigor for assessing uncertainty.

### PDB---2NC

#### Adding durability is bad---revision is key to policy accuracy.

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We also find that respondents’ experience making forecasts and their willingness to revise those forecasts consistently predict higher returns to precision (though the latter finding fell short of the p < 0.05 threshold in some models). These findings provide additional grounds for optimism that professional forecasters could replicate and potentially exceed the returns to precision shown in GJP's data. Many national security professionals assess uncertainty on a daily basis over many years. Professional foreign policy analysts also have much more opportunity and incentive to refine and revise their forecasts in light of new information than did GJP respondents, who revised their forecasts less than twice per question, on average.

#### Reversion key to superforecasting.

Brad Keywell 17. Uptake Technologies, Founder & CEO. "What Makes a Good Forecaster? ". 7-12-2017. https://www.linkedin.com/pulse/what-makes-good-forecaster-brad-keywell

They admit when they’re wrong: When accused of being inconsistent, the legendary British economist John Maynard Keynes is said to have once quipped back: “When the facts change, I change my mind. What do you do, Sir?” Many people (who are not superforecasters) do not change their mind when the facts change. Instead, they fall into a downward spiral of defensiveness and stubbornness. This is dangerous! Opinions in any organization or business must be open to discussion, distillment, disagreement, and, dissent and discard. Opinions may be ours, but they are not us, and they do not define us. Facts are meant to be discovered. They are not screaming out at us. Rather, we must be diligent explorers and searchers to find those relevant facts that matter most. And if we find a fact that makes our opinion wrong, embrace it! Be wrong – being disproven by a new fact is excellent. It’s normal, and it’s valued in a fact-driven drama-free environment. Doing this serves us well as forecasters.

I believe that intellectual curiosity is at the core of a purpose-driven life. The authors of Superforecasting illustrate intellectual curiosity with a simple example: Do you take the question “Who will win the presidential election in Ghana?” as pointless, or as an opportunity to learn something about Ghana?

This may sound corny, but I constantly try to remind the people who work at Uptake, the company I run—as well as, myself—to “be super”: super in our efforts to tenaciously learn and discover the unarguable facts; super in our refusal to rush to judgement about the quality of our opinions or the quality of the opinions of others; super in seeing both the outside and the inside; super in our refusal to allow the easy big ideas to define our actions in how we pursue the complicated small steps; and super in seeing when we’re right, or super in admitting when we’re wrong, and then gracefully transitioning to the more probable path of success.

### 3. PDCP---2NC

#### It’s most predictable---we have the common and precise definition.

Dictionary.com “Inhibit vs. Prohibit”. https://www.dictionary.com/e/inhibit-vs-prohibit/

Prohibit is a transitive verb that means to forbid or prevent. Unlike inhibit, the word prohibit means that an action is being completely prevented. For example: “Angie’s coat was so tight, it prohibited any arm movement.” In this case, Angie isn’t able to move her arms at all. Prohibit is often used to describe the actions of authority figures. It can explain a rule or law. For example, “School rules prohibit cellphone use during class.” A street sign may say “Parking prohibited,” while a sign in a building lobby might say “Smoking prohibited by law.” All of these cases mean that cell phone use, parking in a certain area, or smoking are completely forbidden by their given authority figures, and can’t be done at all.

#### Prohibitions are absolute bans without exemption.

PEDIAA 15. “Difference Between Prohibited and Restricted”. https://pediaa.com/difference-between-prohibited-and-restricted/

Main Difference – Prohibited vs. Restricted

Prohibited and Restricted are used in reference to limitations and prevention. However, they cannot be used interchangeably as there is a distinct difference between them. Prohibited is used when we are talking about an impossibility. Restricted is used when we are talking about something that has specific conditions. The main difference between prohibited and restricted is that prohibited means something is formally forbidden by law or authority whereas restricted means something is put under control or limits.

What Does Prohibited Mean

Prohibited is a variant of the verb prohibit. Prohibited can be taken as the past tense and past participle of prohibiting as well as an adjective. Prohibited means that something is formally forbidden by law or authority. When we say ‘smoking is prohibited’, it means that smoking is not allowed at all, there are no exceptions. Prohibit indicates an impossibility. This gives out the idea that it is not at all possible under any condition or circumstance. The term Prohibited goods is used to refer to items that are not allowed to enter or exit certain countries. For example, the government of South America lists Narcotic and habit-forming drugs in any form, Poison and other toxic substances, Fully automatic, military and unnumbered weapons, explosives and fireworks as prohibited goods. The following sentences will further explain the use of prohibited.

Inter-racial marriages were not prohibited by the government.

He was proved guilty of using prohibited substances.

No one was allowed to enter the grounds; entry was prohibited.

Prohibited imports are the items that are not allowed to enter a country.Difference Between Prohibited and Restricted

What Does Restricted Mean

Restrict means to put under limits or control. Restricted can be either used as the past tense of restrict or as an adjective meaning limited. When we say something is restricted, it means that limits or conditions have been added to it. It does not mean that it is completely impossible. For example, Restricted goods are allowed to enter or exit a country under certain circumstances. A written permission can help you to import or export that item. Likewise, a restricted area does not mean that people are not allowed to enter; it means that a special permission is required to enter the place. Restricted information refers to information that are not disclosed to the general public for security purposes.

The new regulations restricted the free movement of people.

The club was restricted to its members and their family members.

Only the highest military personnel had access to the restricted area.

American scientists had only restricted access to the area.Main difference - Prohibited vs Restricted

Difference Between Prohibited and Restricted

Meaning

Prohibited means banned or forbidden.

Restricted means limited in extent, number, scope, or action

Possibility

Prohibited means that there is no possibility of doing something.

Restricted means that something can be done under certain conditions.

Adjective

Prohibited functions as an adjective derived from prohibit.

Restricted functions as an adjective derived from restrict.

Past tense

Prohibited is the past tense and past participle of prohibit.

Restricted is the past tense and past participle of restrict.

#### That means the counterplan is plan minus---it could find the activity procompetitive.

AMC 07. Antitrust Modernization Commission. Deborah A. Garza, Chair. Bobby R. Burchfield ,Commissioner. W. Stephen Cannon, Commissioner. Dennis W. Carlton, Commissioner. Makan Delrahim, Commissioner. Jonathan M. Jacobson, Commissioner. Jonathan R. Yarowsky, Vice-Chair. Donald G. Kempf, Jr., Commissioner. Sanford M. Litvack, Commissioner. John H. Shenefield, Commissioner. Debra A. Valentine, Commissioner. John L. Warden, Commissioner. “Report and Recommendations.” https://govinfo.library.unt.edu/amc/report\_recommendation/amc\_final\_report.pdf

Economic learning has provided the foundation for updated antitrust analysis in part by revealing the potential procompetitive benefits of some business conduct previously assumed to be anticompetitive. The accommodation of such advances in economic learning has increased the flexibility of antitrust law, with courts and the antitrust agencies now considering a wide variety of economic factors in their analyses. Improved economic understanding and greater analytical flexibility have increased the potential for a sound competitive assessment of business conduct in all industries, including those characterized by innovation, intellectual property, and technological change.